



**THE REVENUE COURTS
REORGANIZATION COMMITTEE
REPORT**



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1947

REVENUE COURTS REORGANIZATION COMMITTEE

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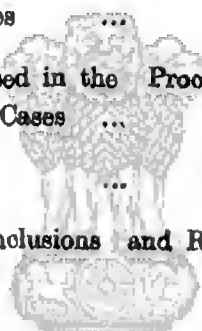
(The last-named Member was also Secretary to the
Committee).

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The Revenue Courts Reorganization Committee Report

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The Revenue Courts Reorganization Committee Report

CHAPTER I

Preliminary

1. THIS Committee was appointed by His Excellency the Governor, in Revenue Department Government Order no. 2182/I—17-C-1946, dated August 8, 1946, to consider the question of courts to hear rent and revenue cases. **Appointment of the Committee.**

2. The personnel of the Committee was as follows : **Personnel.**

- (1) Shri Charan Singh, M.A., B.SC., LL.B., M.L.A.,
Parliamentary Secretary to the Hon'ble Minister
for Revenue (*Chairman*).
- (2) Shri Ajit Prasad Jain, M.A., LL.B., M.L.A.
- (3) Babu Baij Nath, B.A., LL.B., M.L.C.
- (4) Shri Radha Mohan Singh, B.SC., LL.B., M.L.A.
- (5) Shri Vishwambhar Dayal Tripathi, M.A., LL.B.,
M.L.A.
- (6) Mr. Muhammad Ishaq Khan, M.A., LL.B., M.L.A.
- (7) Mr. Zahirul Hasnam Lari, M.A., LL.B., M.L.A.
- (8) Thakur Shri Gopal Singh, M.A., LL.B., U.P.C.S.
(Judicial), Deputy Legal Remembrancer and
Deputy Secretary, Judicial Department.
- (9) Thakur Kuldip Narayan Singh, B.A., F.R.A.S.,
U.P.C.S. (Executive), Deputy Secretary, Labour,
Industries and Excise Departments.

The last-named Member was also Secretary to the Committee.

3. The Terms of Reference of the Committee were as follows : **Terms of Reference.**

- (1) Whether the present arrangements whereby cases relating to rent and revenue are dealt with by revenue courts are adequate and satisfactory.
- (2) If the answer to (1) is in the negative, what changes should be made in the forum for rent and revenue cases.

(3) If the Committee consider that rent and revenue cases should be dealt with by civil courts, they should indicate—

(a) whether all or only some of the rent and revenue cases should be dealt with by civil courts ; and

(b) if all cases are not proposed to be transferred to the jurisdiction of civil courts, what categories of cases should be so transferred and whether the civil courts should have only appellate jurisdiction or be entrusted with original jurisdiction also.

**Opinions
Invited.**

4. Before calling any meeting of the Committee, the Chairman decided to invite opinions on the Terms of Reference. A Press Communique was accordingly issued on August 17, 1946, inviting suggestions for the consideration of the Committee from persons interested in the matter, and particularly from the members of the Bar, either individually or through their associations.

5. The following bodies and officers were specifically addressed for their opinion on the Terms of Reference of the Committee :

- (1) the High Court of Judicature, Allahabad,
- (2) the Chief Court of Oudh, Lucknow,
- (3) the Board of Revenue, Allahabad,
- (4) the Bar Associations in all districts,
- (5) the Mukhtar Associations in all districts of the Agra Province,
- (6) all Commissioners of Divisions, including the Deputy Commissioner-in-charge, Kumaun Division,
- (7) all Additional Commissioners, and
- (8) all District Officers.

6. Quite a large number of opinions was received, from the associations of legal practitioners as well as from individual lawyers, and also from officers and bodies who were addressed in the matter. Most of these opinions were received towards the close of August and in September 1946, but a few came in as late as January and February 1947. A synopsis of the opinions which were received earlier was prepared and supplied to the members of the Committee. A few selected opinions are given at the end of this Report in Appendix II.

7. The first meeting of the Committee was held on September 2, 1946 in Council House in the room of the Chairman, wherein general questions were discussed and some tentative decisions taken.

**First
Meeting
held.**

8. The first question for the consideration of the Committee was whether in view of the action which the Government were contemplating to take regarding—

**Initial
Objection.**

- (a) the abolition of Zamindari,
- (b) the simplification of records relating to land, and
- (c) the *Gaon Hukumat* Bill, 1946, and consequent amendments which will have to be made in the United Provinces Tenancy Act and the United Provinces Land Revenue Act, any useful purpose will be served by proceeding immediately with the task entrusted to this Committee.

9. Some weighty opinions had been received in the matter counselling postponement of consideration of the Terms of Reference of the Committee. The Hon'ble Mr. Justice Ghulam Hasan, Chief Judge of the Chief Court of Oudh, said :

"I should defer any alterations in the procedure at present existing as impending changes may completely modify the Tenancy and Revenue Acts".

The Hon'ble Mr. Justice Lakshmi Shankar Misra, of the Oudh Chief Court, remarked :

"Since the projected scheme for abolition of the Zamindari system in this Province is bound to bring about considerable changes in the tenancy and revenue legislation, I am inclined to think that no major changes in the system of trial of rent and revenue cases should be effected for the present. When the entire picture of the shape of things to come is available, a comprehensive scheme for judicial administration of rent and revenue cases can be evolved".

Another judge of the same court, the Hon'ble Mr. Justice Pradyumna Krishna Kaul stated :

"I would like to point out that any reforms effected now may be found to be inadequate or made not in the right direction five years hence. Everything is in the melting pot and it is difficult to visualize the shape of things to come with any degree of accuracy. In these circumstances it may be advisable to pause a little and wait till we can form a more definite idea of the changes to be effected in our tenancy law"

10. These and allied considerations were examined by the Committee. They held that the Terms of Reference of the Committee pertained to certain fundamental matters which will stand even when the changes under contemplation had been brought about. So far as the question of the procedure for the trial of rent and revenue cases was concerned, it was not necessary for the Committee to go into minute details. That will be for the Officer or body set up to give effect to the decisions of this Committee; and by then the position of things will possibly be clearer. The Committee, therefore, decided to proceed with the work before it, confining consideration of matters only to their broad basic aspects generally.

Second
and Third
Meetings.

11. The decisions taken in the first meeting were reconsidered in the second and third meetings of the Committee which were held at the same place on the following two days, viz. September 3 and 4, 1946. In the meetings on these two days the Committee took broad decisions on different aspects of the Terms of Reference and desired that the Secretary should prepare a brief Report, incorporating their decisions, and circulate it among the members. The next meeting was to be called to consider the Report.

The
Report.

12. For various reasons, including his own pre-occupation with the work of the departments of the Secretariat in his charge, the Secretary was not able to take up the preparation of this Report till the last week of January 1947. Some of the opinions were also received very late, one or two till the time of the writing of the Report. The opinion of the Hon'ble High Court of Judicature at Allahabad was received as late as the first week of April 1947, after the Report had been signed. It has been included in Appendix II.

13. The draft of the Report was circulated among the members of the Committee in February 1947. The meeting to consider it was held on February 22, 1947. The Report prepared by the Secretary was approved with some alterations in paragraph 81 and a slight verbal change in paragraphs 71 and 78. All the six members present signed the report on that date. Two minutes of dissent were appended: (1) by Mr. Zahirul Hasnain Lari, and (2) by Thakur Shri Gopal Singh and Thakur Kuldip Narayan Singh. The remaining three members signed the Report on subsequent dates: (1) Shri Radha Mohan Singh on February 25, 1947, (2) Mr. Muhammad Ishaq Khan on February 28, 1947, and (3) Shri Ajit Prasad Jain on March 1, 1947, in all the three cases without any note or minute of dissent.

14. The Report could not be sent to the Press till May 26, 1947, because the figures in the statements of case work included in Appendix VI were not received from the office of the Board of Revenue, Allahabad till May 21, 1947. They had apparently their own difficulty in getting these figures promptly and correctly from the offices of Collectors and Commissioners.

15. To the main Report are attached six Appendices. Appendix I contains the two minutes of dissent referred to in paragraph 13 above. In Appendix II are given a few selected opinions, out of a large number that were received. These opinions will give, more or less, a general idea of the views received from different quarters. Appendices III and IV are two notes : (1) on the re-employment of the present Revenue Officers, and (2) on certain provisions of the United Provinces *Gaon Hukumat* Bill, 1946, which have already been submitted to Government separately. Appendix V contains the proceedings of the four meetings of this Committee that were held ; and in Appendix VI are given statements of case work done by different grades of revenue courts in the Province during the last six years, or for the years in them for which the figures were available.

Appen-
dices.



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CHAPTER II

Present Arrangements—Whether Adequate and Satisfactory

Nature of
Rent and
Revenue
Cases.

16. Cases under the United Provinces Tenancy Act, which are popularly known as rent cases, are all judicial. Cases under the United Provinces Land Revenue Act, which are similarly called revenue cases, are judicial as well as non-judicial.

Control-
ling
Authority.

17. Except for appeals in certain classes of cases which lie in civil courts, the Board of Revenue are the highest court for cases under the United Provinces Tenancy Act. All judicial cases under the United Provinces Land Revenue Act and all matters connected with Settlement are controlled by the Board of Revenue, but all non-judicial matters under that Act connected with the Land Revenue other than those connected with Settlement are controlled by the Provincial Government.

Grades of
Revenue
Courts.

18. The following are the different grades of revenue courts which deal with the rent and revenue cases :

- (1) The Board of Revenue,
- (2) Commissioners of Divisions,
- (3) Additional Commissioners,
- (4) Collectors of Districts,
- (5) Additional Collectors,
- (6) Assistant Collectors in charge of Sub-divisions,
- (7) Assistant Collectors of the first class, and
- (8) Assistant Collectors of the second class.

The Naib-Tahsildars also deal with certain classes of enquiries and undisputed cases under the United Provinces Land Revenue Act.

19. During Settlement and Record Operations in districts the following special courts deal with particular classes of cases under the United Provinces Tenancy Act and the United Provinces Land Revenue Act—

- (1) Settlement Officers,
- (2) Assistant Settlement Officers,
- (3) Record Officers, and
- (4) Assistant Record Officers.

The rank of the Settlement and Record Officers equals that of the Collectors of districts ; and the Assistant Settlement and Assistant Record Officers correspond to Assistant Collectors in charge of Sub-divisions or Assistant Collectors of the first class.

20. In 1942 a cadre of Revenue Officers was created. They are now a section of the Assistant Collectors of the first class. Recruitment to the post of Revenue Officers was made from amongst the Honorary Assistant Collectors, practising lawyers or retired government servants.

21. All the Presiding Officers of the revenue courts are paid government servants except a section of the two of the lowest ranks of them who are known as (a) Honorary Assistant Collectors of the first class, and (b) Honorary Assistant Collectors of the second class. The Honorary Assistant Collectors are recruited from amongst public men, including lawyers.

22. The Presiding Officers of different grades of revenue courts belong to the services noted against each below :

<i>Grades of Courts</i>	<i>Services which man them</i>
(1) The Board of Revenue ...	Senior members of the Indian Civil Service.
(2) Commissioners of Divisions	Senior members of the Indian Civil Service.
(3) Additional Commissioners	Senior members of the Indian Civil Service and United Provinces Civil Service (Executive).
(4) Collectors of Districts (and Settlement Officers and Record Officers).	Members of the Indian Civil Service and senior members of the United Provinces Civil Service (Executive).
(5) Additional Collectors ...	Junior members of the Indian Civil Service and senior members of the United Provinces Civil Service (Executive).
(6) Assistant Collectors in charge of Sub-divisions (and Assistant Settlement and Assistant Record Officers).	Junior members of the Indian Civil Service and members of the United Provinces Civil Service (Executive).

- | | |
|---|--|
| (7) Assistant Collectors of the first class. | (a) Junior members of the Indian Civil Service.
(b) Members of the United Provinces Civil Service (Executive).
(c) Revenue Officers.
(d) Honorary Assistant Collectors. |
| (8) Assistant Collectors of the second class. | (a) Junior members of the Indian Civil Service and the United Provinces Civil Service (Executive).
(b) Tahsildars.
(c) Honorary Assistant Collectors. |

23. The Assistant Collectors exercise original jurisdiction in rent and revenue cases; the Collectors and Additional Collectors exercise original as well as appellate jurisdictions; and the Board, Commissioners and Additional Commissioners exercise only appellate jurisdiction.

24. There are some classes of cases in the United Provinces Tenancy Act, mainly those specified in Group A of the Fourth Schedule of the Act, in which appeals from the orders of the Assistant Collectors of the First Class and of Collectors lie to District Judges, and then to the High Court or the Chief Court, as the case may be, from the appellate orders of District Judges.

25. From the details given in paragraph 22 above it will appear that of the officers who comprise the hierarchy of revenue courts, the Revenue Officers and the Honorary Assistant Collectors are the only ones who exercise purely judicial functions. All others are administrative officers who, in their duty, naturally give priority to their executive responsibilities. In a few districts some of the Revenue Officers and Honorary Assistant Collectors have also been entrusted with sundry miscellaneous functions of an executive nature.

**Effect of
Increase in
Executive
Work.**

26. The abnormal increase in the executive and administrative work during the period of the last World War has left its indubitable impress on the machinery of revenue courts in the Province. To relieve for this work the main officers who were till then responsible for dealing with most of the rent and revenue cases, (a) the Honorary Assistant Collectors who had been discontinued in 1937 were revived

in 1940 ; (b) the new cadre of Revenue Officers was introduced in 1942 ; (c) a large number of Additional Collectors and Additional Commissioners were appointed ; and (d) a third member was added to the Board of Revenue. The administrative control of the revenue case work remained, however, with the old guards.

27. The number of officers doing rent and revenue cases during the last six years was as follows :

Courts	In 1940-	In 1941-	In 1942-	In 1943-	In 1944-	In 1945-	Number of Officers doing Rent and Revenue Cases.
	41	42	43	44	45	46	
(1) Board of Revenue ...	2	2	3	3	3	3	
(2) Commissioners ...	10	10	10	10	10	10	
(3) Additional Commissioners ...	5	8	9	12	12	10	
(4) Collectors ...	49	49	49	49	49	49	
(5) Additional Collectors ...	9	13	14	15	18	15	
(6) Deputy Collectors ...	273	294	273	263	248	238	
(7) Tahsildars ...	206	212	212	212	212	212	
(8) Revenue Officers ...	2	92	98	116	116	116	
(9) Honorary Assistant Collectors.	114	151	158	157	150	144	

[*N. B.*—The figures against no. 6 (Deputy Collectors) also include a negligible number of junior I. C. S. officers.]

28. Opinion on the question, whether the present arrangements whereby rent and revenue cases are dealt with by revenue courts are adequate and satisfactory, is sharply divided. The officers of these courts and a strong section of lawyers practising in them, including *en bloc* the Revenue Agents on the Agra side of the Province, are clearly of the opinion that except for the fact that the Presiding Officers of the revenue courts are overburdened with executive duties, the present arrangements are quite adequate and satisfactory. They hold that all that is necessary to improve the situation is to add to the number of the Presiding Officers. They would not counsel any change in the system. Mr. C. H. Cooke, C.I.E., I.C.S., Commissioner, Lucknow Division, typifies this class when he emphatically answers the question, whether the present arrangements whereby rent and revenue cases are dealt with by revenue courts are adequate and satisfactory, in the affirmative ; and adds that all that is needed is a considerable increase in the number of revenue courts. The Hon'ble Mr. Justice William Yorke Madeley of the Oudh Chief Court, also holds :

Opinion
on the
Question.

"I should prefer the present system to be maintained. In Mutation cases the question of possession arises, or, if that is doubtful, *prima facie* title.

It is better for these points to be decided by a revenue court rather than by a civil court which may ultimately have to thrash out the question of title finally”.

29. There is another large section of opinion which frankly admits the shortcomings of the present system and is desirous of reforming it but without upsetting the very basis of the existing arrangements. Dr. S. S. Nehru, I.C.S., Additional Commissioner, Meerut (now Additional Member, Board of Revenue), describes the position as follows:

“Assistant Collectors and Collectors have been dealing with rent and revenue cases in original or first appellate jurisdiction. Both are over-worked executive officers, faced with the inevitable consequences of such over-work, conscious or unconscious, none the less acute, chief of which are—

- (a) They are rushed to get through the day's rent and revenue work in a day at a tempo, which may show some gain in quantity, but a set-back in quality; and
- (b) their approach, aloof and mentality are not at all that of a purely judicial officer, but of an ‘American sheriff in shirt-sleeves’ ”.

Mr. S. Khurshid, C.I.E., I.C.S., Commissioner, Jhansi Division, opines—

“I do not think that the present arrangements whereby cases relating to rent and revenue are dealt with by revenue courts are inadequate or unsatisfactory. During the war when the hands of the Sub-Divisional Officers were so full with other duties, courts of Revenue Officers were established to ensure expeditious disposal of work. But the fact cannot be gainsaid that during and after the war there has been considerable increase in the administrative duties of Sub-Divisional Officers and Tahsildars. As a natural result of that it is not possible for Sub-Divisional Officers and Tahsildars to devote as much attention to the disposal of rent and revenue cases as one could expect in normal times. From this point of view it seems expedient that some sort of change should be effected to ensure speedy disposal”.

Mr. Rajendra Prasad Sahavari, Legal Practitioner, Mathura, states :

"It has been experienced that the Sub-Divisional Officers who are also invested with magisterial powers and have a great deal of executive work do not pay proper care and attention towards the decision of the revenue cases and the revenue cases are either adjourned for a number of times or a great deal of work is left to be done by court *ahlmads*".

30. There is a third—and a considerable—section of opinion, mainly consisting of the Civil Court Bar and Officers who hold that the present system of dealing with rent and revenue cases is inherently wrong, and advocate its replacement by a proper system based on well recognized judicial principles. The Hon'ble Mr. Justice Mubashir Husain Kidwai of the Oudh Chief Court, explains the point in the following words :

"There can be no doubt that the present system of the trial of rent and revenue cases by officers who are principally executive officers and whose first concern is administrative business is wholly unsatisfactory and should be altered. The litigant is put to considerable trouble and expense in having his case adjourned owing to the Presiding Officer being busy in his executive duties or in his work as a Magistrate. Very often too cases are taken up on tour and this involves heavy expenditure in taking counsel out and paying for his conveyance, etc. It was for this reason that, while there is objection to individuals, the system of having Revenue Officers has been generally approved. Moreover persons whose principal business is the performance of executive work do not usually make good judicial officers. A different type is required for the two kinds of work".

Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Legal Remembrancer to the Government of the United Provinces and now District Judge, Basti, remarks in the same strain—

"Now for the proper application of the law it is very necessary that the Presiding Officer of the court should have ample time to study and consider

them. With the multifarious duties cast upon the executive officers, it is too much to expect from them to bestow the requisite time and thought to the study of the law. Judicial work has now become a kind of specialized work and one who is charged with that duty should be allowed to give his whole time to it".

**Revenue
Officers.**

31. For the first time in the history of revenue courts full-time paid officers for dealing with rent and revenue cases were appointed in 1942 when the new cadre of Revenue Officers was introduced as a temporary measure to meet the extraordinary stress of executive and administrative work on the officers of the United Provinces Civil Service (Deputy Collectors). These Revenue Officers have continued to work, even though the institution is still temporary, during the last about five years and they have brought to bear a new outlook upon the revenue judiciary of the Province. Apart from the criticism of some of the personnel whose selection was not made strictly on the basis of capability and merit in all cases, the institution of Revenue Officers has widely been welcomed, not only by the lawyers and other officers engaged on dealing with rent and revenue cases, but also by the public in general. The Board of Revenue remark :

"The appointment of Revenue Officers with purely judicial functions has accelerated very appreciably the disposals of suits and applications. The quality of the work of these courts has inevitably varied but viewed as a whole the work done by them has fully justified the appointment of whole-time revenue courts".

Dr. S. S. Nehru, I.C.S., Additional Commissioner, Meerut (now Additional Member, Board of Revenue), states :

"But the war, by forcing the pace, provided a good way out of the difficulty through the Revenue Officers. Their judgments may be prolix, but are not "off the rails" and therewith the tone of judicial work in the lower stadia has been raised".

Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Legal Remembrancer to the Government of the United Provinces and now District Judge, Basti, reported that from all that he knew he could say that this new system has improved the method of disposal of revenue cases.

32. So far as the institution of Revenue Officers is concerned, therefore, it is hailed from all sides. And, this public opinion is a pointer of what the correct system of the administration of rent and revenue cases in the Province should be. It must, however, be remembered that the Revenue Officers are only a fraction of the machinery which at present deals with rent and revenue cases.

33. The question arises whether with the addition of Revenue Officers the machinery is now sound, or whether with some more addition to the cadre of Revenue Officers and other classes of officers dealing with rent and revenue cases, the judicial machinery on the revenue side can be considered as adequately satisfactory. And, the reply is obviously in the negative, for unless what is basically wrong in the system is remedied, it is impossible to secure that amount of convenience to the public and their full confidence in it which are incumbent for any proper judicial machinery to sustain it.

34. As discussed above, we have considered the question, whether the present arrangements whereby rent and revenue cases are dealt with by revenue courts are adequate and satisfactory, from all aspects, and our reply is in the negative. The arrangements are inadequate because most of the courts which deal with these cases are pre-occupied with other responsibilities, and unsatisfactory because the cases are not heard and determined in a setting which is entirely judicial from top to bottom.

Reply to
the
Question.

CHAPTER III

Whether Rent and Revenue Cases Should Be Dealt With by Civil Courts.

The
Second
Question.

35. Our answer to the question, whether the present arrangements whereby rent and revenue cases are dealt with by revenue courts are adequate and satisfactory, given in the last paragraph of the last Chapter, naturally leads us now to the other question, whether in the circumstances disclosed rent and revenue cases should be dealt with by civil courts. Civil courts are free from any executive or administrative responsibilities and their frame, from top to bottom, is entirely judicial. The causes which led us to hold the present revenue courts to be inadequate and unsatisfactory for dealing with rent and revenue cases are absent in the case of civil courts.

Should all
Rent and
Revenue
Cases
go to Civil
Courts.

36. Among the opinions received there are a good many suggesting straightway transfer of all rent and revenue cases which are at present dealt with by revenue courts to civil courts. While, on the one hand, Mr. C. H. Cooke, C.I.E., I.C.S., Commissioner, Lucknow Division, considers that this suggestion is inept in the extreme, on the other, Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Legal Remembrancer to the Government of the United Provinces and now District Judge, Basti, suggests, in 'summing up his opinion, which is given in full in Appendix II, that all judicial work done by the revenue courts at present should be transferred to the civil courts; and that the necessary number of Presiding Officers should be added to the civil courts, by transferring the present Revenue Officers and a portion of the cadre of Deputy Collectors to the civil side.

Should
some of
the Rent
and
Revenue
Cases go
to Civil
Courts.

37. There is a second set of opinions which suggest that the jurisdiction for some of the cases at present heard by the revenue courts should be transferred to civil courts and that the rest of the rent and revenue cases should continue to be heard by the revenue courts. Views differ divergently as to the class of cases to be shifted to the civil courts. It is very difficult to sort out these cases. There is, however, one class of cases, that pertaining to the determination of a proprietor's or tenant's title, about which a large number

of those who advocate sending away of some of the cases to civil courts, are agreed that these should go. Similarly a large number of them suggest that the original jurisdiction in cases under the United Provinces Tenancy Act in which appeals lie to District Judges, should be transferred to civil courts.

38. The Hon'ble Mr. Justice Mubashir Husain Kidwai, of the Oudh Chief Court, who, in his note, has examined the question with great care, and with whose opinion in the matter his brother Judges of that court, Justices Misra, Kaul and Walford are in general agreement, states that the question of suggesting alternatives to the present arrangements for hearing rent and revenue cases is complicated and involves a consideration of the problems of finance and administrative convenience. He pleads that he does not know the amount of work of various kinds that the revenue courts have to dispose of. He knows, however, that during recent times some districts have had to employ one and others two Revenue Officers, in addition to the ordinary district staff, to dispose of all the cases, and that, in most divisions, Additional Commissioners have been appointed. The Board of Revenue too has had an Additional Member. This indicates, Mr. Justice Kidwai remarks, that work has considerably increased since the passing of the United Provinces Tenancy Act.

39. To the above preface Mr. Justice Kidwai adds that it was not known what kind of work revenue courts will be called upon to perform if the scheme of the abolition of Zamindari comes off at an early date and, therefore, the suggestions which he could make must be based on the present state of the law and on the basis of the incomplete data available. He then proceeds to make the following proposal :

“One alternative would be to continue the present system of Revenue Officers and to establish a regular gradation of revenue courts which should dispose of all cases relating to rent and revenue. The difficulty is that most probably, now that things are settling down, and the law is becoming clear, there would not be enough work, particularly in the courts of appeal. Another alternative is to transfer all the work to civil courts but this will involve difficulties in cases of a petty nature which are now dealt with by

Tahsildars because a Munsif, the lowest civil judicial officer, is much more highly paid than the Tahsildar and moreover Tahsildars hold their courts at the headquarters of the tahsil while the Munsif holds his court at the district headquarters. I would suggest that business be distributed as follows :

I. Tenancy Act Cases—

- (a) All cases at present triable by Tahsildars should continue to be triable by Tahsildars.
- (b) Assistant Collectors should continue to try cases mentioned in Schedule IV—Group B at items 1, 2, 7, 8, 9, 10, 11, 12, 14, 15, 20, 21, 22 and all cases in Group D except those mentioned at items 10 and 11.
- (c) Collectors should continue to try cases mentioned in Schedule IV—Group E.
- (d) All other cases arising under the Tenancy Act should be triable by civil courts and whenever a Tahsildar has to report a case he should refer it to a civil court.
- (e) All appeals should come to the District Judge and the Chief Court or High Court.

II. Cases under the Land Revenue Act—

All cases under the Land Revenue Act should be tried by the courts at present empowered to try them but in Mutation cases, if there is a contest, the Tahsildar, instead of forwarding the case to the Sub-divisional Officer, should forward it to the civil court for disposal”.

Deficiencies
in Civil
Courts.

40. Thus among those who advocate trial of rent and revenue cases by civil courts there are some who would abolish all the existing revenue courts and would take the entire work connected with these cases to civil courts ; while there are others who would let the revenue courts continue but transfer the jurisdiction of certain class of cases to civil courts. Either of these courses involves the question whether the civil courts are the most appropriate forum for the trial of rent and revenue cases and this question bristles with enormous difficulties. We have seen that some of the inherent defects from which the present revenue courts suffer are not there in the case of civil courts, but at the same time there

are certain other shortcomings in the latter which should deter us from agreeing to the proposal of transferring the jurisdiction of the rent and revenue cases to civil courts.

41. Answering the question, whether the present arrangements for hearing rent and revenue cases are adequate and satisfactory, emphatically in the affirmative, Mr. W. F. G. Browne, I.C.S., Commissioner, Rohilkhand Division, says that, in his opinion and the opinion of his Additional Commissioner and the Bar practising in their courts, for efficiency and speedy disposal of rent and revenue cases the continuance of revenue courts is essential, the reason being that, as is well known, the civil courts are already over-burdened with work and are notorious, in addition, for inordinate delay in disposing of suits. It is, of course, true that much of the delay in civil courts is due to the fact that many cases are appealable as far as the Hon'ble High Court. Mr. Browne adds that another reason for the opinion reported by him is that for the tenant litigation in revenue courts is apt to cost less than litigation in civil courts.

42. Syed Jafar Hasan Zaidi, U.P.C.S. (Executive), Additional Commissioner, Gorakhpur Division, elaborates the same view in the following words :

"The present arrangement of rent and revenue cases being dealt with by revenue courts, although not perfect, is quite satisfactory. In my opinion giving jurisdiction of these cases to the civil courts will not be a change for the better. Reasons for the opinion are as follows :

- (1) Civil litigation is notoriously costly. Poor tenants will not be able to bear it.
- (2) Civil litigation is mostly a prolonged affair. Disposals by the civil courts cannot be so prompt as by the revenue courts, particularly as it has been during the last 3 or 4 years when most of the cases were tried by the Revenue Officers.
- (3) Cases under the Land Revenue Act need experience of field work. This experience is very helpful in deciding the disputes. The officers who dispose of these cases, i.e. Naib-Tahsildars, Tahsildars and Deputy Collectors have that experience. Civil courts which will have no experience of *partial* work will not be able to decide the disputes in respect of Correction of Papers as satisfactorily as the revenue courts do.

- (4) Under the present law, revenue cases are instituted in the tahsil. The Naib-Tahsildar makes local inspection, if necessary, and then after taking evidence, submits a report. The Sub-divisional Officer allows additional evidence and then decides the dispute. In 90 per cent. cases no additional evidence is produced and stand is taken on the proof given before the Naib-Tahsildar or the Tahsildar. Thus disposal of cases under the Land Revenue Act is very quick and satisfactory. If cases under this Act are placed under the jurisdiction of Munsifs, it will take a long course for them to decide those cases and will entail more time and expense. It is obvious that the arrangement that Naib-Tahsildar's reports be submitted to the Munsif instead of the Sub-divisional Officer will not be in any way satisfactory because the Naib-Tahsildar will in no other way be subordinate to the Munsif".

43. The first serious objections to the trial of the rent and revenue cases in civil courts are that litigation in civil courts is cumbersome, dilatory and very expensive. Rent and revenue cases need for them cheap and speedy process. The poor tenant will neither have the patience nor resources to stand protracted hearings of his cases in civil courts.

44. The officers of the civil court have no experience of the country-side in their jurisdiction, of the system of Land Records, of Survey and allied matters; and by their training and acquired habits they are unsuited to be entrusted with the decision of the rent and revenue cases which require specialized knowledge. Dr. S. S. Nehru, I.C.S., Additional Commissioner, Meerut (now Additional Member, Board of Revenue), rightly says that it would be anomalous to saddle the civil courts, including the High Court, with these specialized cases. The following comments of the Mukhtars' Association of Gorakhpur are relevant in this connexion :

"For the decision of the rent and revenue cases, the knowledge of Land Records, principles, usage, customs, and the work of the agriculturists and rural inhabitants, is essential. These cases can be efficiently dealt with by officers who have been trained accordingly. The officers on the

revenue side (as against those on the civil side), have better means to acquire knowledge of these matters because they go out in camps, do *partial* and mix with villagers. They are also trained in Land Records Rules”.

45. The work of the supervision of Land Records, as the Hon'ble Mr. Justice William Yorke Madeley of the Oudh Chief Court, aptly remarks, assists, and is assisted by, the case work on the revenue side. This work is at present done by the same officers who hear the rent and revenue cases. Civil courts which have no authority over the Land Records will have to face considerable difficulty in dealing with the Land Records matters and handling the Land Records staff.

46. Among those who have suggested transfer of rent and revenue cases to civil courts, there is a large section who, for obvious reasons, are of the opinion that cases under the United Provinces Land Revenue Act should continue to be dealt with by the officers on the revenue side. A few have suggested that the Partition cases under the United Provinces Land Revenue Act should be tried in civil courts. The balance of opinion is, however, again on the other side. Of all the rent and revenue cases, those relating to Partitions under the United Provinces Land Revenue Act, entail lengthiest proceeding; and if these cases are transferred to civil courts, it is evident that the complaint about delay will accentuate. Moreover, civil courts which have no insight into Land Records, and will have to make a number of local inspections in connexion with each one of the Partition cases, will encounter considerable difficulty in handling these cases.

47. Above all, if rent and revenue cases are transferred to the jurisdiction of civil courts, the staff in them, including of the Presiding Officers, will have to be strengthened very considerably. The acute complaint about delay in the disposal of cases on the civil side is chiefly due to shortage of staff. And, if more work is given to them, they will naturally ask for proportionate increase in the number of their Presiding Officers. Mr. Justice William Yorke Madeley, of the Oudh Chief Court, is of the opinion that the transfer of all cases from the jurisdiction of the revenue courts to the civil would cause great dislocation, and involve a tremendous burden for the civil courts. In these circumstances a question arises whether an increase in the present cadre of Revenue Officers will not be a cheaper and better solution of the difficulty.

48. There is also a section of opinion which apprehends that if the jurisdiction for the trial of rent and revenue cases is transferred to civil courts, these cases will receive the same step-motherly treatment from the officers of those courts which most of the Presiding Officers on the revenue side have been giving them so far. This is not, apparently, a misplaced apprehension, for the Presiding Officers of the civil courts will naturally give their first consideration to the civil cases, as the Sub-divisional Officers have been giving to their administrative work and criminal cases in the present arrangement of things. From this point of view also the change to entrust the rent and revenue cases to civil courts will not be desirable.

Our
Answer
to the
Second
Question.

49. Everything considered, therefore, we are of the opinion that it will not be an advisable step to transfer the jurisdiction to try a part or whole of the rent and revenue cases, from the revenue to civil courts. The arrangement will neither be conducive to efficiency nor will it bring convenience to the litigant public.



नमो भगवते वासुदेवाय

CHAPTER IV

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Changes Proposed in the Forum for Rent and Revenue Cases

50. "Reorganization of revenue courts", observes Mr. Shambhu Dayal Singh, U.P.C.S. (Judicial), Civil Judge, Moradabad, whose full opinion is given in Appendix II, "seems to have been long overdue. The public generally does not seem to be satisfied with the revenue court decisions when questions involving title, whether relating to proprietary or tenancy rights, are concerned. It is for that reason that attempts are made to bring the real dispute between the parties within the purview of the civil courts in some form or other, by twisting facts or the law, by means direct or indirect, or by ways fair or foul. In spite of section 180 of the United Provinces Tenancy Act, cases continue to come to civil courts for the ejectment of trespassers. Questions of proprietary title or jurisdiction are raised in revenue cases so as to make the appeal lie in civil courts. Questions relating to succession to tenancy rights are attempted to be decided by civil courts in indirect form, for example by raising the question of succession to non-tenancy property, or say, the standing crop of a field or some such thing, in the first instance, or even after the main question is decided by the revenue courts, so as to find out a means to obtain the reversal of the previous decision."

Re-organ-
ization of
Revenue
Courts.

51. We entirely agree that the re-organization of revenue courts is overdue. We do not quite agree, however, that the tendency among the litigant public to go to civil courts for reversal, by backdoor means, of the orders of revenue courts, is altogether due to the fact that, on merits, they are not generally satisfied with the decisions of the revenue courts. We consider that this tendency is to a large extent due to the anxiety of the defeated parties to try their luck again in a different forum. We shall propose a remedy for this in the next Chapter.

52. We do not minimize, however, the inadequacy of the present arrangements for the disposal of rent and revenue cases and their unsatisfactory character. As we have remarked earlier in this Report this state of things is chiefly due to the fact that the revenue courts are not able to give their undivided attention to the cases on their file and the surroundings in which they work are not wholly judicial. Any system devised to replace the existing arrangements must be free from these defects.

A
Half-way
Measure.

53. A suggestion has been made that separate officers may be appointed for the offices of Sub-divisional Officers and Sub-divisional Magistrates, and also for those of Collectors and District Magistrates. This would mean that the Sub-divisional Officers and Collectors will not have the responsibility for dealing with criminal cases, but it does not apparently mean that the District Officer will not entrust the Sub-divisional Officers with duties of executive and administrative nature. It does not also envisage that the control of Sub-divisional Officers will rest with wholly judicial authorities. In fact in an arrangement like this the Sub-divisional Officer remains the executive head of his Sub-division. This system has already been experimented in a few districts of the Province, particularly Gorakhpur and Basti, and has now been practically abandoned because it neither tended to efficient administration, on account of dual control, nor gave scope for the creation of an independent and whole-time judiciary, either for the revenue or criminal cases. It was only a half-way measure and has been exploded like other similar measures which do not provide for a complete remedy for the evil.

Separation
of
Executive
from
Judiciary.

54. What is required in the circumstances —and what is desired by the people— is a complete machinery for trying rent and revenue cases, which will not have responsibility for any executive or administrative work, and which will not be controlled by any authority other than judicial. An average litigant has more confidence in civil courts than in revenue courts because the former possess these qualities. He does not, consciously or unconsciously, like his cases to be heard by officers who have any executive or administrative authority over him. This is obviously an unequivocal demand for separation of the judiciary from the executive, and nothing short of it would work as a satisfactory solution of the difficulty. There is the same consideration behind the proposal to transfer jurisdiction of the rent and revenue cases to civil courts.

A
Nucleus.

55. The war-time institution of Revenue Officers provided to the litigant public a class of courts which, though they did not possess all the attributes of civil courts, were more similar to them than to revenue courts. These Revenue Officers have, on the whole, proved successful in many districts in as much as, being whole-time officers for the work, they have provided more facilities and convenience to the public than Deputy Collectors, and won a fair measure of their confidence. They have also been able to show good work. Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Legal Remembrancer

to the Government of the United Provinces and now District Judge, Basti, comments about Revenue Officers :

“I had occasion to see their work in appeals. I have heard the public opinion about them. Taken as a whole, in the vast majority of cases, Revenue Officers have worked honestly, conscientiously and devotedly”.

Here is then a nucleus upon which the structure of the future revenue courts may be built.

56. We have seen that for valid and strong reasons it will not be a wise course to transfer the jurisdiction of rent and revenue cases to civil courts. On account of the most responsible and authoritative source from which it comes, the following opinion recorded by the Board of Revenue in this connexion is very important and relevant :

Opinion of
the Board
of
Revenue.

“Few will dispute that the amount of revenue litigation in the Province and the time, labour and money it involves are out of all proportion to the benefit conferred upon the agricultural community. Drastic steps should be taken to reduce it. This can be most effectively done in two ways, firstly by amendment of the Rent and Revenue and related Acts in such a way as to curtail the rights of appeal and revision and to ensure the earlier and most speedy final decision of disputes, and secondly by the establishment of whole-time Revenue Original and Appellate Courts.

“The first of these ways is not included in the Terms of Reference of the Press Communique and will presumably be considered by the Legislature and Government independently. As regards the second, the Board is strongly of opinion that nothing is to be gained but a great deal to be lost by saddling the civil courts with Revenue-Judicial work. The delays in those courts are already notorious and while they can possibly be explained, if not justified by the complicated nature of a large number of civil disputes, it is altogether improper that revenue suits, in the vast majority of small valuation, should be kept pending decision in

Appellate Courts for two or more years. There should, therefore, be established a separate Revenue-Judicial Department of Original and Appellate Courts and a final Court of Appeal or Chief Revenue Court whatever may be the designation".

57. Those who opined that the jurisdiction for trying rent and revenue cases should be given to civil courts did so apparently on account of the judicial atmosphere in which they functioned and their independent character. They ignored, or in any case did not appreciate, the hardships to which the litigant public will be subjected, and the deficiencies which were inherent in civil courts for taking up the work of rent and revenue cases. They did not evidently examine all the implications of their suggestion. The view-point of this class of opinion will be met if a separate set of judicial officers is appointed for original as well as appellate work pertaining to rent and revenue cases. At the same time the objections to which the civil court judiciary is open for the purpose can also be eliminated by a careful planning of the new structure.

58. The Hon'ble Judges of the Oudh Chief Court also contemplated that the present system of Revenue Officers may be continued and a regular gradation of revenue courts established to dispose of all cases relating to the rent and revenue law. They apprehended, however, that in view of the coming events, particularly the abolition of Zamindari and transfer of a part of revenue case work to village *panchayats*, this regular gradation of revenue courts will not have enough work for it, specially in appeals. We regret we do not share the views of the Hon'ble Judges of the Oudh Chief Court that with the abolition of Zamindari and transfer of a part of the revenue case work to village *panchayats*, the litigation on revenue side would dwindle down to such an extent that it will not be necessary to have even one (or more) Revenue Officer in a district or that there will not be enough work to keep a Divisional Court of Appeal in every division for first appeals and a Provincial Court of Appeal for second appeals for the entire Province, fully occupied. We realize that with the accomplishment of the measures which the Government have now in view, there will be enormous fall in revenue litigation, as there should be, but things will still be there and the process will have to be there

in some form or the other ; and it does not seem reasonable to calculate that revenue litigation will practically be eliminated.

59. In the circumstances discussed above we find ourselves in complete agreement with the views expressed by the Board of Revenue that there should be a separate Revenue Judiciary for the Province. We consider, however, that, without compromising in any material degree the principle which we have accepted of having a whole-time set of officers to deal with the rent and revenue cases, under the control and guidance of a proper judicial body, the proposals which we make should not be more costly to the tax-payer than the present arrangements, and in any case they should not entail any avoidable cost.

60. Accordingly, we recommend that there should be a wholly independent Revenue Judiciary, except for the lowest rung where the Tahsildar may continue to be an executive officer as at present; and that no other officer of this Judiciary, excepting the Tahsildar, should be saddled with any executive, administrative or criminal case work. We propose that there should be the following grades of revenue courts :

**Future
Shape of
Revenue
Courts.**

- (a) Tahsildar,
- (b) Revenue Officer,
- (c) Divisional Court of Appeal, and
- (d) Provincial Court of Appeal.

**Grades of
Courts.**

61. In the new frame of the Revenue Judiciary the Tahsildar will hold the same position, that of Assistant Collector of the second class, which he has in the present structure. As there will be no Collector in the new scheme, the designation of Assistant Collector first class and Assistant Collector second class will have to be abrogated. In the proposed Revenue Judiciary the Tahsildar may be called Assistant Revenue Officer. He may continue to be assisted in his work of revenue cases by the Naib-Tahsildar to the same extent, except as modified in the proposals in this Report, as at present.

**The
Tahsildar.**

62. We realize that by retaining the Tahsildar, who will continue to be an executive officer, and possibly also a Magistrate of the second or third class, in the new Revenue Judiciary, we are neither giving the public an unadulterated judicial edifice for the work, nor are we making a complete

separation of the judiciary on the revenue side from the executive. The position is, of course, not ideal. But consistently with our aim of not making the new system unnecessarily costly, it is most practical. With the transfer of a large number of petty cases to the jurisdiction of the village *panchayats* and with our proposals to stop any enquiry at the Tahsil in contested cases relating to Mutation and Correction of Papers, the amount of work for the Tahsildar to do in the future scheme of the trial of rent and revenue cases will be reduced to the minimum. It will consist mostly of petty uncontested cases. It will not obviously be commensurate with the work which will remain for him to do that a new cadre of Assistant Revenue Officers be created. The arrangement will be very costly and one which can easily be avoided without materially affecting the main scheme. After all Tahsildars deciding cases under the control and guidance of purely judicial authorities will not function like the present all-executive Tahsildars under the control of judicial-cum-executive-cum-administrative officers.

63. Moreover, as we do not propose to transfer the administration of the Land Records to the newly created Revenue Judiciary, it will be a very advisable and necessary step to keep the Tahsildars and Naib-Tahsildars in the picture as connecting links between the Revenue Judiciary on the one hand and the officers of the Land Records Administration on the other. They will be of valuable assistance and will go a long way in the smooth working of the new Judiciary, without, of course, impairing its independence or efficiency in any way.

The
Revenue
Officer.

64. The Revenue Officers will take over all the case work, excepting those of the executive and administrative nature, which (1) Collectors and Additional Collectors in their original jurisdiction, and (2) Assistant Collectors in charge of Sub-divisions and (3) Assistant Collectors of the first class are at present doing in districts.

A Senior
Revenue
Officer
in each
District.

65. The present cadre of Revenue Officers will have to be strengthened. A Senior Revenue Officer may be made the administrative head of all the Revenue Officers and Assistant Revenue Officers in a district and he may exercise powers and functions corresponding to those exercised by the Collector in respect of the Assistant Collectors and the rent and revenue cases on their file in the present arrangement of

things. This Senior Revenue Officer may be entrusted with the trial of cases whose original jurisdiction at present vests in the Collector and Additional Collector. He may also hear appeals from the orders of Assistant Revenue Officers.

66. There will be a Divisional Court of Appeal at the headquarters of each division, corresponding to the present Court of Commissioner and Additional Commissioner. We propose that the Presiding Officer of this court may be designated as Revenue Commissioner. Besides all the work of appeal which Commissioners and Additional Commissioners are doing at present, these courts will also take on their file the appellate work of the Collectors and Additional Collectors which are not proposed to go to the Senior Revenue Officers in districts as indicated in the above paragraph. The Revenue Commissioner will be the administrative head of all the Senior Revenue Officers, Revenue Officers and Assistant Revenue Officers in his division and will exercise similar powers in respect of them and the cases on their file as the Commissioner does now.

The
Divi-
sional
Court of
Appeal.

67. A suggestion has been made that the appeal from District Courts should lie direct to the Provincial Court and that there should be no intermediary court as that of the Commissioner in the present system. We consider that this suggestion has been made more with a view to cut down the number of appeals than to eliminate the Divisional Court as such. We will make our recommendations regarding the number of appeals which should be permitted in the next Chapter. We consider that it will be very inconvenient to the litigant public if they are required to go for their appeals to the Provincial Court instead of to the Divisional Court. In our opinion, therefore, the retention of Divisional Courts of Appeal is essential.

68. The Provincial Court of Appeal will take the place of the present Board of Revenue so far as its case work is concerned. The Presiding Officers of this court may be called Judges of the Revenue Board ; and may be given the same position and privileges which are enjoyed by the Judges of the High Court and Chief Court. This Provincial Court of Appeal will be the highest revenue court in the Province and will control and guide all the subordinate courts in the new Judiciary.

The
Provin-
cial
Court of
Appeal.

Recruitment of Officers for Different Grades of Revenue Courts.

69. We consider that the recruitment of officers for different grades of revenue courts should be made by careful and judicious selection, under a proper set of rules, through the Public Service Commission. The opinions from various quarters approve of the institution, and also to some extent the work, of the Revenue Officers but they condemn the method by which they were recruited and the personnel selected is not approved in many cases. The following opinion of the Bar Association of Moradabad is typical :

“The Revenue Officers have no doubt proved useful in disposing of a large number of cases but the manner in which these officers were recruited resulted in lowering their integrity and they have consequently failed to inspire public confidence”.

70. The institution of Revenue Officers was first created in 1942 as a temporary measure, only for a period of one year in the first instance. It was evident that most of the legal practitioners were unwilling to risk their practice for such a precarious service. Those who offered themselves for selection were back benchers who had no standing in the profession of law. Some retired government servants also came in ; and a portion of the cadre was filled up by those who had worked as Honorary Assistant Collectors. No strict selection was made on the basis of merit in each case. It is natural, therefore, that some of the personnel so admitted to the cadre of Revenue Officers did not only prove to be incompetent but also tried to make best use of the opportunity to gain personal ends. There have been complaints of inefficiency and corruption against them. We are most anxious to insure against such state of affairs in the case of the personnel of the new Revenue Judiciary and suggest that the Government should adopt all necessary safeguards against undesirable persons getting into these services. On our part we propose to indicate only some broad lines on which the selections should be made in each case.

Qualifications for Revenue Officers.

71. We consider that the Revenue Officers in the future Revenue Judiciary should be selected from amongst—

- (1) the Law Graduate members of the Bar who have put in five years' revenue and civil practice and are not more than thirty years of age at the time of selection ;

- (2) the present Revenue Officers who have proved themselves to be honest and efficient ; and
- (3) the present Deputy Collectors, preferably those having Law Degrees.

For obvious reasons it should not be permissible for a person to be appointed as a Revenue Officer unless he possesses a Degree in Law from some recognized University. That should be the minimum educational qualification for the post.

Similarly, it should be necessary for a direct candidate to have put in at least five years' practice as a lawyer.

It will not also be in the interest of the new service to appoint very old persons. We consider that in the case of new recruits it will be fair to have the maximum age limit as thirty years.

Those of the present Revenue Officers who have proved themselves to be honest and efficient should also be eligible for appointment to the new service. To make sure that the Revenue Officers against whom there have been complaints, are excluded from consideration, we suggest that the following two classes of persons should be debarred :

- (1) those who have not actually practised as lawyers for the last five years or more, just preceding September 30, 1946 ; and
- (2) those Revenue Officers who have not been allowed extension of service as such officers on or after September 30, 1946.

The reasons which have led us to make the above recommendations are fully explained in the Note of the Chairman in Appendix III to this Report.

We consider that for the working Revenue Officers also, who are only temporary employees, there should be a maximum age limit for their entry into the new service. This may be thirty five years.

Suitable Deputy Collectors should also, of course, be eligible for appointment as Revenue Officers. There should be no age limit in their case.

By their previous experience of judicial work both Deputy Collectors and Revenue Officers should be an asset to the new cadre of Revenue Officers.

72. We have seen that a strong section of opinion favoured transfer of jurisdiction of a part or whole of the rent and revenue cases because it desired to have for these

cases an independent whole-time judiciary. This object will be achieved by the appointment of Revenue Officers who, in the future scheme of things, will deal with all the rent and revenue cases of a judicial nature, and will be controlled and guided by a set of Divisional and Provincial Courts which, in their frame, will be entirely judicial. As the persons to be selected for the post of Revenue Officers, and of the Presiding Officers of the higher courts in the new Revenue Judiciary, will be educationally, and otherwise, as much qualified and experienced as the corresponding officers of the Civil Judiciary, there is no reason to apprehend that the proposed cadre of Revenue Officers will fail to win the same esteem and confidence of the public for the work entrusted to them which the corresponding officers of the civil court have for the work coming before them.

73. It is for certain well-defined valid reasons, however, that we have decided against shifting the rent and revenue cases to civil courts. We found that there were some deficiencies in the civil courts and their Presiding Officers which would prove a handicap to the trial of the rent and revenue cases by them. To obviate these deficiencies in the case of the new Revenue Judiciary we will have to make well-planned provisions in the matter from before-hand. We propose to indicate below some of the main provisions which will be necessary.

74. To gain the object of giving quick and cheap justice to poor cultivators in their rent and revenue cases, the achievements of the officers of the new Revenue Judiciary should be judged by a standard of work fixed for them after full consideration of all the circumstances and not by the balance of work left to be done, irrespective of the amount of disposals, as is apparently the criterion at present. The civil court officers have for them a properly approved standard of work but the revenue court officers in the present system are deemed to be responsible for clearing off all the work that may come before them, irrespective of its volume, within certain prescribed time. This is obviously neither fair to the officers, nor satisfactory in the interest of the work itself. We propose, therefore, that there should be fixed a proper standard of work for all the grades of courts in the new Revenue Judiciary; and that the number of officers to be appointed for various courts should be on the basis of the actual amount of work and not of areas (sub-divisions or districts) as is the case at present. This will tend to efficiency in the work and convenience to the litigant public.

The figures which we are giving in Appendix VI of this Report will be very helpful in fixing the standard of work for different grades of courts.

75. We consider that after their selection for the post of Revenue Officers it will be necessary to give the candidates a brief course of training extending from three to four months in the following subjects among others :

Training
of
Revenue
Officers.

- (1) maintenance and revision of Land Records,
- (2) Survey,
- (3) recording evidence,
- (4) writing judgments, and
- (5) making local enquiries.

Besides a refresher course in the United Provinces Tenancy Act, United Provinces Land Revenue Act and Code of Civil Procedure, the candidates should also be given some idea of provisions in the Acts and Rules relating to such allied subjects as Consolidation of Holdings, *Taqavi*, Land Records, etc.

This training should be organized on the model of the Civil Training Class for the officers of the Indian and Provincial Civil Services which existed for some years, some twenty years back. It used to give a solid grounding to the new officers for their future work.

After this training the Revenue Officers will be distinctly better equipped for dealing with the rent and revenue cases than the Presiding Officers of the civil courts.

76. We consider it necessary for the Revenue Officers to be given facilities for a short course of touring for about a month every year. This will enable them to acquaint themselves with local conditions and to renew their knowledge of Land Records. Although we do not propose that the administration of the Land Records should be entrusted to the Revenue Officers, we consider it necessary that they should be authorized to inspect the work of Land Records, particularly during the period of this annual tour. This arrangement will give them great facilities in procuring the attendance of Patwaris in their courts, and generally in deciding the rent and revenue cases before them. The Revenue Officers should not, however, be entrusted, during the course of their tour, with any duties which are not connected with their case work.

Facilities
for
Touring
to
Revenue
Officers.

77. The present Revenue Officers were appointed during the period of the last war as a temporary measure on a fixed salary of Rs.250 per mensem and the same arrangement continues. We consider that the Revenue Officers in the

Status and
Emolu-
ments of
Revenue
Officers.

proposed Revenue Judiciary should have the same status and should get the same emoluments as members of the United Provinces Civil Service (Executive) or (Judicial). It will not be a wise course to have any cheaper cadre for them. It will neither attract really suitable candidates, nor be a safe basis for proper maintenance of their integrity.

Qualifications for the Presiding Officers of Divisional Courts.

78. The Presiding Officers of the Divisional Courts of Appeal should be selected from amongst—

- (1) the Law Graduate members of the Bar who have put in ten years' revenue and civil practice and are not more than forty five years of age at the time of selection ; and
- (2) members of the cadre of (a) I. C. S. and (b) U. P. C. S. on the executive side, and (c) Revenue Officers, who have done revenue case work for at least ten years and are not more than forty five years of age.

We consider that in the case of the Presiding Officers of the Divisional Courts of Appeal, the minimum qualification should be ten years' experience of work, either at the Bar or in the Bench.

There should be an age limit in their case also so that men with sufficient energy in them may get into the cadre, and there may be no risk of people coming at the fag end of their career for a year or two, which will not obviously be in the interest of public service. We consider that those recruited as Presiding Officers of the Divisional Courts of Appeal should be able to work for a period of ten years ; and accordingly we have proposed the maximum age limit as forty five years in their case.

In our opinion the proportion of the members of (a) the Bar and (b) services in the cadre of the Presiding Officers of the Divisional Courts of Appeal should be 50 : 50.

Strength of Presiding Officers in the Provincial Court

79. There should be a minimum strength of three Presiding Officers in the Provincial Court of Appeal.

80. The Provincial Court of Appeal should sit in a Bench of two Presiding Officers to hear appeals or revisions.

81. We propose that the Presiding Officers of the Provincial Court of Appeal should be selected from amongst—

Qualifications for the Presiding Officers of the Provincial Court.

- (1) the Law Graduate members of the Bar who have put in ten years' revenue and civil practice and are not more than fifty years of age at the time of selection ; and
- (2) members of the cadre of (a) I. C. S. and (b) U. P. C. S., on the executive or judicial side, and (c) Revenue Officers, who have done revenue case work for at least ten years, and are not more than fifty years of age.

We consider that it will be a good idea from several points of view to have fusion of civil court Presiding Officers at the highest stage of the new Revenue Judiciary ; and have, therefore, included them also among those who should be considered for appointment to the Provincial Court of Appeal.

The proportion of the two sources mentioned at (1) and (2) above should be 2 : 1, i.e. two from Bar and one from services.

The maximum age-limit in this case is suggested as fifty years so that those selected may give a service of at least five years.

In order that there may be a sufficiently wide scope for selection, it has not been considered necessary to vary the condition about experience at the Bar or in Bench from that proposed for the Presiding Officers of the Divisional Courts of Appeal. Those with longer experience, and having worked at a higher level, will, of course, be considered more suitable and given preference.

82. Among the opinions received a suggestion has been made that revenue courts should, for the convenience and facility of the litigant public, be located at the headquarters of tahsils. The Tahsildars already sit there and there is no proposal to dislocate them. So far as Revenue Officers are concerned the question is not free from difficulty. The Senior Revenue Officer for the district will have to be at the headquarters of the district. There will not always be as

Location of Courts

many Revenue Officers as tahsils in a district and, therefore, it will not be a practical proposition to post a Revenue Officer at the headquarters of each tahsil. Whenever it is possible, however, to allocate one or more Revenue Officers for a particular tahsil, we see no objection to their sitting at the headquarters of tahsils rather than at district headquarters. But if a Revenue Officer deals with cases of more than one tahsil, we consider it advisable that he should hold his court at the district headquarters.

83. The Divisional Courts of Appeal should sit in sessions at the headquarters of each district in the division at suitable intervals and deal with cases pertaining to that district. This will save the cultivators a lot of expense in going to the divisional headquarters for their appeals. Their official headquarters should, however, be at the divisional headquarters.

84. The Provincial Court of Appeal should sit at Allahabad which is *de jure* capital of the Province, and most central. The offices of the Board of Revenue, the judicial portion of which will become the office of the proposed Provincial Court of Appeal, are also located at Allahabad. No other place in the Province possesses such high traditions of judicial independence and enjoys such great reputation for judicial atmosphere as Allahabad does ; and it still continues to have the cream of the Provincial Bar. It is evidently desirable that our Provincial Court of Appeal on revenue side should work along-side the elder Provincial Court of Appeal for civil and criminal cases, in the salubrious environment of Allahabad.

85. There is great dissatisfaction among public as well as lawyers about rent and revenue cases being heard by Sub-divisional Officers in camp. As the Sub-divisional Officers will no more be dealing with rent and revenue cases in the new scheme, the complaint will automatically disappear. We have proposed, however, that the Revenue Officers of the new Judiciary should be provided with facilities for touring for a brief duration of about a month each year. They should employ this period for gaining experience of rural conditions, doing *partial* (inspection of Land Records), making local enquiries and inspections, particularly in Partition cases, and in similar other activities. They should not take up regular hearing of any rent or revenue case in camp.

CHAPTER V

Changes Proposed in the Procedure for Rent and Revenue Cases.

86. As we have already pointed out, the deliberations of this Committee have been confined to the main points of principles concerning the questions referred to it and their broad details. We do not propose to consider in this Report various minor changes in the procedure for dealing with the rent and revenue cases which are called for. There are some aspects of the matter, however, which are so conspicuous that they cannot escape our notice. Regarding some of these matters we have received pointed comments in the opinions submitted to us.

Broad
line of
Investiga-
tions.

87. From what we know of things and from what the opinions received by us reveal, we can safely say that there is a consensus of opinion that the procedure for hearing rent and revenue cases should be so revised as to—

- (1) simplify the proceedings,
- (2) avoid duplication in litigation,
- (3) cut down the number of appeals, and
- (4) provide solution for conflict of jurisdictions.

We propose to examine below these points briefly in respect of some main topics and to offer our suggestions.

88. We take up the question of appeals first. At present appeals lie from the orders of the Assistant Collectors of the second class to Collectors, then to Commissioners or District Judges, and lastly to the Board or the High Court. In some cases appeals from the orders of the Assistant Collectors of the first class in charge of Sub-divisions lie to Collectors, then to Commissioners, and finally to the Board. In all these cases there are three stages of appeals. In cases tried by the Assistant Collectors of the first class and Collectors appeals lie to Commissioners or District Judges, and then to the Board or the High Court. In these cases there are two stages of appeals. We are definitely of the opinion that the number of appeals should be reduced. We agree with the opinion expressed by Mr. W. F. G. Browne, I.C.S., Commissioner, Rohilkhand Division, that to improve the present work in revenue courts the number of appealable orders should be reduced, for instance there should be no second appeal on questions of *fact*. We consider that there should be only one appeal in rent and revenue cases ordinarily and that a second appeal should be permitted only on the

Appeals.

grounds specified in section 100 of the Code of Civil Procedure. If our suggestion in this respect, as given below, is accepted much of the unnecessary cost of the present day revenue litigation will be eliminated.

89. Appeals should lie from the decisions of the Tahsildar (Assistant Revenue Officer) to the Senior Revenue Officer or to a Revenue Officer in the district specially empowered in this behalf. A second appeal in such cases from the decisions of the Senior Revenue Officer or the Revenue Officer should lie to the Divisional Court of Appeal and should be admitted only on the grounds specified in section 100 of the Code of Civil Procedure.

90. Similarly, appeals from the decisions of the Revenue Officer should lie to the Divisional Court of Appeal. A second appeal in such cases from the decisions of the Divisional Court of Appeal should lie to the Provincial Court of Appeal and should be admitted only on the grounds specified in section 100 of the Code of Civil Procedure.

91. The suggestions made above would reduce the number of appeals to the minimum. In most of the petty cases there will not be more than one appeal; and in certain special class of cases there will be provision for a second stage of appeal. There will not be more than two appeals in any case.

Mutation Cases.

92. There is a chorus of complaint against the procedure for the hearing of Mutation cases under sections 34 and 35, United Provinces Land Revenue Act. These cases have a protracted course of enquiry, beginning from the court of the Tahsildar. They are heard in a regular manner by the Assistant Collector in charge of the Sub-division after the enquiry before the Tahsildar has been completed. Appeal lies to Collector, then to Commissioner, and finally to the Board of Revenue. There are in this way five grades of courts to hear the Mutation cases on the revenue side.

93. Mutation cases under sections 34 and 35, United Provinces Land Revenue Act, are decided on the basis of possession as laid down in section 40, United Provinces Land Revenue Act, in the courts on the revenue side, and the question of title is examined, and that too, only *prima facie*, only if the Assistant Collector is not able to satisfy himself as to which party is in possession. This evidently means that there can be no finality in the decisions in Mutation cases taken by the revenue courts.

94. The disgruntled party then goes to the civil court for a decision of the same case on the basis of title. He starts from the Court of the Munsif or the Civil Judge and goes right up to the High Court. Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Legal Remembrancer to the Government of the United Provinces and now District Judge, Basti, rightly observes :

“Mutation cases in particular are at present unnecessarily tedious and dilatory. Firstly the parties fight in the revenue court right from the court of the Assistant Collector to the Board of Revenue and the defeated party then comes to the civil court for a declaration of his right. He is thus bled white in the litigation. I would suggest that there should be one line of courts only to finally dispose of the Mutation matters.”

95. It is obvious that the present procedure for the trial of Mutation cases in two sets of courts side by side is most unsatisfactory. “The law relating to Mutation is very defective”, says Mr. A. N. Sharma, Pleader, Dehra Dun, giving a vivid description. He proceeds, “Under the law, as it stands, Mutation is made on the basis of possession obtained on succession or transfer. The result is that in disputed cases, each party tries to obtain possession by illegal and questionable means, and what is worse, tries to prove that possession by evidence specially procured for the purpose. False and fictitious receipts for realization of rent and other dues are issued, tenants are won over by this party or that, and all sorts of underhand tricks are employed in securing Mutation. After the Mutation case has been fought up to the Board of Revenue, the defeated party goes to the civil court for a declaration of title, in as much as the orders of the revenue courts are based on summary enquiry and are not binding on the parties so far as the question of title is concerned. The process is repeated with practically the same or some additional evidence and by the time the question of title is decided finally by the High Court or the Chief Court, as the case may be, the parties find that they have had to spend much more than the subject matter of the dispute is worth. It is the bounden duty of the State to save its subjects from a ruinous course of litigation such as is mentioned above.”

96. The duplication of litigation and unnecessary waste of money in the Mutation cases being tried by two sets of independent courts is obvious. The reason why this is

so is that the Land Records are maintained by the authorities on the revenue side, while the jurisdiction for deciding cases pertaining to proprietary title vests in civil courts. As the collection of rent and revenue is dependent on the Mutation of names in revenue records, it is desirable to provide for the quickest procedure for the disposal of Mutation cases, which can be had only in revenue courts, and also at the same time to avoid duplication of litigation as far as possible. The appeals on the revenue side in three successive courts are in a sense practically infructuous in these cases and may be done away with. The following views of Mr. Rama Kant, U.P.C.S. (Executive), District Officer, Rae Bareilly, are relevant in this connexion :

“As regards Mutation cases it is well-known that the orders of revenue courts in disputed cases are of no practical value. Even a Munsif can set aside the orders of the highest revenue tribunal, Board of Revenue. Some procedure may be evolved for the speedy decision of Mutation cases by revenue courts. I am of opinion that in Mutation cases no appeal should be provided except the first appeal to the Court of the Collector. It is sheer waste of time, money and energy to provide second and third appeals to the Commissioner and the Board of Revenue. Mutation proceedings are purely fiscal proceedings meant to fix the responsibility of paying land revenue on particular co-sharers and this purpose will be fully served if the Collector's order in the first appeal is treated as final. The person aggrieved may have recourse to a competent civil court instead of wasting his time in going up in appeal before the Commissioner and the Board of Revenue when their orders can be set aside on the matter being taken to civil courts”.

97. We are in complete agreement with the view expressed by Mr. Rama Kant and consider that even the first appeal to the Collector may be dispensed with. The party dissatisfied with the order of the Assistant Collector in charge of Sub-division may straightway go to the Munsif or Civil Judge instead of filing an appeal to the Collector. Mutation of names can be affected as soon as the Assistant Collector in charge of the Sub-division has taken his decision and this is good enough for fiscal purposes, in any case

for the interim period till a firm decision, as a result of full consideration of the case, is obtained from the civil court.

98. We also consider that though the Mutation proceedings in revenue courts should continue to be summary as at present, the basis of their decision should not be possession, as laid down in section 40, United Provinces Land Revenue Act, but *prima facie* title. This will eliminate the necessity for fabricating evidence of possession and consequent wastage of money and energy. The decision on the basis of *prima facie* title will be sounder and will not require as much time of the Assistant Collector in charge of the Sub-division (or the corresponding officer for the purpose of the new Revenue Judiciary) as he has to give to the Mutation cases at present for finding out the real person who is in possession from a mass of hurly-burly evidence coming up before him in every case. As in other rent and revenue cases, the Revenue Officer will take the place of Sub-divisional Officer for hearing Mutation cases.

99. Accordingly we propose—

- (1) In cases for mutation of names under sections 34 and 35, United Provinces Land Revenue Act, which become contested, the files should be submitted to the Revenue Officer immediately and there should be no further enquiry of any kind in the court of the Tahsildar.,
- (2) The Revenue Officer should decide these cases summarily, on the basis of *prima facie* title, and not of possession as is done at present.
- (3) No appeal or revision shall lie in revenue courts against such decision of the Revenue Officer.
- (4) The party not satisfied with the decision will, however, have the option, as at present, of obtaining a declaration about its title from the civil court.
- (5) The undisputed Mutation cases shall continue to be disposed of by the Tahsildar as at present.

100. Cases under the United Provinces Land Revenue Act relating to Correction of Papers are allied to Mutation cases. Long drawn out enquiries in tahsils are made in them also ; and there is the same complaint about the large number of appeals as in Mutation cases.

**Correction
of Papers
Cases.**

101. We have decided to make the following suggestions in respect of the trial of Correction of Papers cases under the United Provinces Land Revenue Act—

- (1) All undisputed cases relating to Correction of Papers should continue to be disposed of by the Tahsildar, on the same lines as undisputed Mutation cases.
- (2) All disputed cases relating to Correction of Papers which involve questions of tenancy rights, should be decided by Revenue Officers in a regular manner, after framing issues and joining necessary parties, according to the procedure laid down in section 42, United Provinces Land Revenue Act.
- (3) In disputed cases relating to Correction of Papers which involve questions of proprietary title, the parties concerned should be directed to obtain a declaration about their rights from the civil court and no existing entries should be disturbed except on the basis of the judgments of civil courts in the matter.
- (4) All other disputed cases relating to Correction of Papers should also be heard by Revenue Officers.
- (5) As soon as a case relating to Correction of Papers became contested, the Tahsildar should forward the proceedings to the Court of the Revenue Officer without making any further enquiries into it on any ground. The Revenue Officer should deal with the case himself thereafter.
- (6) All the decisions of Revenue Officers in Correction of Papers cases should be appealable to the Divisional Court of Appeal; and a second appeal should also lie to the Provincial Court of Appeal on grounds specified in section 100 of the Code of Civil Procedure.
- (7) All Correction of Papers cases should be decided on the basis of title, and not of possession as laid down in section 40, United Provinces Land Revenue Act.

102. We have already explained the reasons for the above recommendations and it is not necessary to repeat them. We realize that in some special type of cases difficulty may arise in locating the person from whom the

land revenue should be realized and to whom the rent should be payable, as a result of our recommendation that in disputed cases relating to Correction of Papers which involved questions of proprietary title the existing entries should not be disturbed except on the basis of the judgments of civil courts in the matter. There may also be some cases in which the burden of initiating litigation in the civil court may be shifted to wrong shoulders. We would, however, leave the thing at this stage as it is, to be examined further when definite measures are devised to give effect to our recommendation. What we mean to indicate by this particular recommendation is a line of principle which we have already emphasized and about which we are very clear. There should be no unnecessary attempt at settlement of disputes in courts on the revenue side if their final settlement rests with the civil courts.

103. In this connexion our attention has been drawn to the following provisions in clauses 72, 73 and 74 of the United Provinces *Gaon Hukumat* Bill, 1946 :

The U. P.
Gaon
Hukumat
Bill, 1946.

72. "All disputed cases arising out of the proceedings under sections 33, 34, 35, 39, 40 and 41 of Act III of 1901 shall be referred by the Tahsildar to the *Adalti Panchayat* having jurisdiction, if any :

Provided that proceedings under sections 34 and 35 of Act III of 1901, in which land paying more than Rs.5,000 land revenue is involved shall not be referred to any *Adalti Panchayat*.

73. In all proceedings referred to in the preceding section, the Collector or Sub-divisional Officer shall have powers of revision either upon reference made to him or upon his own motion ; but there shall be no appeal against orders of any *Adalti Panchayat* notwithstanding any provision of Act III of 1901 to the contrary.

74. In proceedings under the Land Revenue Act, the *Adalti Panchayat* shall follow the prescribed procedure."

104. These clauses of the *Gaon Hukumat* Bill evidently mean that—

(a) all undisputed cases arising out of proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act, shall continue to be dealt with by the Court of the Tahsildar as hitherto ;

- (b) all disputed cases arising out of proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act, except those under sections 34 and 35 in which land paying more than Rs.5,000 land revenue is involved, shall, on the passing of the *Gaon Hukumat* Bill into Act, be dealt with by the *Adalti Panchayat* ;
- (c) there shall be no direct institution of cases under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act in the Court of *Adalti Panchayat* ; and that proceedings which become disputed under these sections shall, as defined in clause (b) above, be referred to *Adalti Panchayat* by the Tahsildar ; and
- (d) there shall be no appeal from the orders passed by the *Adalti Panchayat* in proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act but the Collectors and Sub-divisional Officers shall have power of revision either upon reference made to them or on their own motion.

105. We consider that the following points in these provisions are contrary, either in words or spirit, to our recommendations and that they should be re-considered as indicated—

- (1) The *Panchayats* should hear all Mutation cases relating to properties paying land revenue up to Rs.5,000 per annum. We consider that the *Adalti Panchayats* should not be authorized to hear cases under sections 34 and 35, United Provinces Land Revenue Act, relating to properties paying an annual land revenue of more than Rs.50.
- (2) The *Panchayats* should hear all Correction of Papers cases. We consider that the *Adalti Panchayats* should not be authorized to hear cases under sections 39 and 42, United Provinces Land Revenue Act which involve decisions of tenancy rights relating to properties paying an annual rent of more than Rs.100.
- (3) There should be no appeal against the decisions of *Adalti Panchayats* . We consider that these *Panchayats* should decide the cases relating to Mutation and Correction of Papers in a summary manner. The parties not satisfied with their

decisions in Mutation cases should have the option to take their cases to regular civil courts for declaration of their rights. Similarly in cases of Correction of Papers involving tenancy rights, parties not satisfied with the decisions of the *Adalti Panchayats* should be free to take their cases to Revenue Officers. In all other cases there should be no appeal from the orders passed by the *Adalti Panchayats* in proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act, but the Senior Revenue Officers or Revenue Officers should have the power of revision either upon reference made to them or on their own motion

106. As the Select Committee to consider the *Gaon Hukumat* Bill, 1946 was shortly to take up its work, the Chairman of this Committee has already submitted in September last a note containing most of our views in the matter to the Hon'ble Minister for Justice who was Chairman of the Select Committee. We have now added Correction of Papers cases relating to tenancy rights which should also go to Revenue Officers on the same lines as Mutation cases will go to civil courts. The reasons for our recommendations are contained in the relevant Note of the Chairman which is given in Appendix IV of this Report.

107. In the opinions received there is a volume of controversy as to whether the cases for Partition of *mahals* under the United Provinces Land Revenue Act should be heard by the civil courts, or by Revenue Officers, or by the Sub-divisional Officers who will be concerned only with the cases of executive and administrative nature under the United Provinces Land Revenue Act in the future scheme of things. There is a strong section of opinion which is not satisfied with the work of the present Sub-divisional Officers in regard to these cases. There is another section equally vociferous which considers it necessary to entrust this work to the same officers who will be in charge of the Land Records. Those who want the Partition cases to go to civil courts desire to have an entirely judicial atmosphere for them. For reasons partly explained in paragraph 46 *ante* we agree with the view expressed by the Bar Association of Unao that the Partition work should be entrusted to a whole-time Revenue Officer. As this work requires specialized knowledge, we consider that, as far as possible, all the work relating to Partitions in a particular district should be given to one particular officer.

Partition
Cases.

Jurisdiction
of Two
Courts
to Decide
an Issue.

108. There is a duplication of jurisdiction regarding the trial of issues of proprietary title arising in Partition cases. Section 111, United Provinces Land Revenue Act provides that such issues should either be decided by the civil court or by revenue court. The Bar Association of Unao considers that the power of revenue courts to decide questions of title themselves should be taken away from them. Mr. Muhammad Ahmad, U.P.C.S. (Executive), Deputy Commissioner, Unao agrees with this view and suggests that section 111 should be so amended as to enable the revenue court to frame an issue relating to proprietary title and to remit it to civil court for a finding. Mr. Shambhu Dayal Singh, U.P.C.S. (Judicial), Civil Judge, Moradabad also holds—

“In suits for Partition of *mahals*, all questions involving proprietary title should be referred to civil courts. Section 111(1), United Provinces Land Revenue Act, should be so amended as to require Partition courts to refer questions of proprietary title to civil courts, much in the same way as under section 236, United Provinces Tenancy Act. The law should provide an appeal against the finding on such proprietary questions to the higher civil courts just as against civil court decrees.”

We agree with the views of Mr. Singh which sum up the position and recommend accordingly.

109. The provision for appeals in Partition cases should be made on the same lines as indicated in paragraph 90. First appeals from the orders of Revenue Officers should lie to the Divisional Court of Appeal, and second appeals on grounds specified in section 100 of the Code of Civil Procedure, to the Provincial Court of Appeal.

Jurisdiction
of Two
Courts
to Decide
a Case.

110. In the discussion in paragraph 108 we have seen an example of a procedure by which two courts are given simultaneous jurisdiction to decide an issue in a case. This is bad enough but unavoidable because we want Partition cases to be heard and decided by Revenue Officers who will supervise, and be in touch with, Land Records which are of vital importance and necessity in dealing with these cases. At the same time we would maintain the principle of all disputes relating to proprietary rights being dealt with by civil courts. The only solution of the difficulty, therefore, is that while the Partition cases should be tried by the newly created cadre of Revenue Officers, all issues in them

pertaining to proprietary title should be referred for findings to civil courts. There is, however, a still worse type of duplication of jurisdiction provided by sections 286 and 288 of the United Provinces Tenancy Act which prescribe for issues being remitted from the revenue courts to civil and *vice versa* in cases which could conveniently, and without infringing any of the vital principles, be dealt with by one set of courts without reference to the other.

111. "It is suggested", observes Mirza Haider Beg, Advocate, civil courts, Jaunpur, "that no issue on the plea of tenancy raised in the civil court should be remitted to the revenue court under section 288, United Provinces Tenancy Act, for finding. Under explanation (4) to the above quoted section, the finding of the revenue court on the issue referred to is deemed for the purposes of appeal to be part of the finding of the civil court. Why not then confer jurisdiction upon the original civil court to record its finding also on it? Sometimes anomalous position arises. I cite the following as an example :

" 'A' has brought a suit in the civil court against 'B' for cancellation of a sale deed, executed by his father 'C', on the ground of its invalidity for one reason or the other. B's defence is that 'A' is not the son of 'C', that the sale deed is valid and genuine, and that he is the tenant of the vended land. The civil court shall frame the following issues :

- (1) Whether 'A' is the son of 'C' ?
- (2) Whether the sale deed executed by 'C' in favour of 'B' is valid and genuine ?
- (3) Whether 'B' is the tenant of the disputed land ?

"The last issue shall have to be remitted to the revenue court for finding under section 288, United Provinces Tenancy Act. The revenue court comes to a finding for reasons of its own that 'B' is not the tenant of the disputed land and sends back the case to the civil court. On this finding the suit is to be decreed. The latter court shall then start with recording its findings on the first two issues. If the civil court comes to a finding that 'A' is not the son of 'C', it shall dismiss the suit, though 'B' has not been held to be a tenant of the land, and further if it comes to a finding that the sale deed was valid and genuine, it shall also dismiss the suit though 'B' was held not to be the tenant of the disputed land. In all such circumstances, the time and labour spent by the

revenue court in determining the issue of tenancy and the expenses incurred by the parties shall have to be simply wasted. Instances like these can be well multiplied and such cases do often arise. Under the circumstances, it is suggested that either the civil courts should be made to try all issues including the issues of tenancy, or a provision be made that in cases of this nature, the other inter-dependent issues be tried first by the civil court before the issue of tenancy is remitted to the revenue court".

112. The difficulties of the nature which Mirza Haider Beg has described in respect of civil suits containing issues of tenancy rights which are remitted to a revenue court for determination, frequently also arise in respect of revenue suits containing issues of proprietary title which are remitted similarly to a civil court for determination. As we are definite about the principle of issues relating to proprietary titles being invariably heard and determined by civil courts, we consider—

- (1) that, as a general rule, all cases, including those mentioned at serial nos. 20, 21, and 22 of Group B of the Fourth Schedule of the United Provinces Tenancy Act, which involve issues relating to proprietary rights in them, should be transferred by the revenue courts to civil courts for complete disposal, and not only for findings on particular issues relating to proprietary rights as is done at present; and
- (2) that civil suits in which issues of tenancy rights are involved should be disposed of completely by civil courts, and that issues in them relating to tenancy rights should not be remitted for findings to revenue courts as is done at present.

Civil courts are quite competent to decide cases under the United Provinces Tenancy Act, including those relating to tenancy rights; and there is no reason why this tedious process and anomaly should not be stopped by entrusting, once for all, to them the trial of all such cases which either involve questions of proprietary title, or are of a civil nature.

Conflicting
Rulings of
the Highest
Revenue
and Civil
Courts.

113. The arrangement which we have proposed above will put a stop to the remission of issues pertaining to proprietary title for findings, from revenue courts to civil courts; as laid down in section 286, United Provinces Tenancy Act; and also to the remission of issues pertaining to tenancy rights for findings, from civil courts to revenue courts, as laid down

in section 288, United Provinces Tenancy Act. It will ensure trial of cases involving issues of a mixed nature of proprietary and tenancy rights by one set of courts, viz. the civil courts. The remedy will be effective as far as it goes, but it will add to another type of difficulty with which we are faced even now. The Board of Revenue, on the one hand, and the High Court and Chief Court, on the other, do not always see eye to eye in their interpretation of the law on some points and a conflict of opinion between them is not only bewildering to the litigant public, but at times also creates awkward position for the executive authority. With a larger number of cases involving issues of tenancy rights and others under the United Provinces Tenancy Act now going up before the High Court and Chief Court as a result of our proposal to transfer cases involving mixed issues to civil courts, the difficulty about conflicting rulings will accentuate.

114. Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Legal Remembrancer to the Government of the United Provinces and now District Judge, Basti, observes in this connexion—

“Another defect in the present system is that on some questions the High Court and the Board of Revenue have taken divergent views, e.g. the High Court and the Board have given different rulings on section 180 of the United Provinces Tenancy Act on the question as to whether a suit by one co-sharer against another for ejectment under that section is maintainable or not. The Board holds that it is, while the High Court holds that it is not maintainable. When there are two tribunals to interpret a law there is bound to be such difference of opinion, but the public is left in the dark. One of the first essential requisites of law is that it should be definite and public should be left in no doubt as to what the law on a particular topic is. That object of law is defeated by the present system of revenue litigation. With the entrustment of rent and revenue cases to one set of tribunals only such defect will not arise.”

115. Mr. Bind Basini Prasad's solution of the difficulty is that all the rent and revenue cases should be tried by civil courts. We have already considered this question at length and taken our decision in the matter which is different from that of Mr. Bind Basini Prasad, and see no reason to re-consider

it. We have, however, to take notice of the difficulty pointed out by him, which, as we have discussed above, will be all the more under the scheme now proposed by us of putting a stop to the system of the remission of issues from revenue courts to civil and *vice versa*. We consider that the difficulty of conflicting rulings can be obviated by making a definite provision in the law that for the decision of cases under the United Provinces Tenancy Act and issues relating to tenancy rights, the interpretation of law as made by the highest revenue court shall be final and binding upon all the courts, including those on the civil side ; or, if for any reason this suggestion is not found to be sufficiently effective, a provision should also be made for a reference to the Federal Court of India for authoritative ruling, by the High Court or Chief Court if it finds that it does not agree with any interpretation of law given by the Provincial Court of Appeal on the revenue side, and by the latter, similarly, if it finds that it does not agree with any interpretation of law given by the High Court or Chief Court. In this way all the conflicting points will be settled by the Federal Court of India, without parties to the proceedings themselves having to go up in appeal or revision.

Conflict of
Jurisdiction.

116. Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Secretary to the Government of the United Provinces and now District Judge, Basti, again points out that one of the main defects of the present system of litigation is the great harassment to which parties are sometimes put on account of conflict of jurisdictions between the civil and revenue courts. It is well-known that appeals from revenue courts at present lie partly to the civil courts and partly to the revenue courts. But sometimes moot questions arise whether an appeal lies to the civil or to the revenue court. In such cases the parties first fight up to the highest tribunal on the revenue or the civil side and when at last the decision is given that the appeal does not lie to it, then the process begins in the other set of courts and the parties go up to the highest tribunal on that side. The solution of the difficulty suggested by Mr. Bind Basini Prasad is that if all the cases are triable by one class of courts, namely the civil courts, no such harassment would arise.

117. In view of the decision which we have already taken about the trial of all rent and revenue cases by a whole-time independent Revenue Judiciary to be set up for the purpose, our solution of the difficulty is that in such cases also a reference should be made to the Federal Court of India for authoritative ruling, by the High Court or Chief Court if it

finds that it does not agree with the finding on the point of the Provincial Court of Appeal on the revenue side, and by the latter, similarly, if it finds that it does not agree with the finding on the point of the High Court or Chief Court.

118. The division and exchange of lands under proprietary cultivation are at present governed by the United Provinces Land Revenue Act which prescribes costly and lengthy proceedings. We consider that for the facility of petty landholders it is necessary to provide for the division and exchange of lands under proprietary cultivation, in the United Provinces Tenancy Act, on the lines similar to those in sections 49, 50, 51, 52 and 53 of that Act.

Provision
for
Division
and
Exchange
of Land
under
Proprietary
Cultivation.

119. The applications under section 163, United Provinces Tenancy Act, for the issue of notice to expropriary, occupancy, or hereditary tenants for payment of arrears of rent due, and in default, for ejectment from the holding, are of considerable importance to tenants; and, therefore, we consider that they should be made triable by Revenue Officers instead of by Tahsildars.

Applica-
tions under
Section
163, U. P.
Tenancy
Act to be
Made
Triable by
Revenue
Officers.

120. With an independent whole-time Revenue Judiciary which we propose for the trial of the rent and revenue cases, which will be as competent as Civil Judiciary, we consider that it is no longer necessary to provide for any of the appeals from the orders of Presiding Officers on the revenue side to be heard by the Presiding Officers on the civil side, as is prescribed in the Fourth Schedule of the United Provinces Tenancy Act. All such appeals should, in the new arrangement of things, lie to the Divisional Court of Appeal and not to civil courts.

No More
Appeals
from
Revenue
Courts to
Civil
Courts.

121. Although we have recommended that the Revenue Officers should exercise power of inspection of the Land Records, we consider that all administrative matters under the United Provinces Land Revenue Act, e.g. maintenance and supervision of Land Records, transfers and punishments of Patwaris and Kanungos, collection of revenue, and appointment and dismissal of Lambardars, should continue to be dealt with by the executive officers as at present, and should not be entrusted to the officers of the proposed Revenue Judiciary. The officers of the new Judiciary have to be kept aloof from responsibilities of executive nature. We agree with the opinion in this matter of Mr. W. F. G. Browne, I.C.S., Commissioner, Rohilkhand Division, that orders

Adminis-
trative
Matters
under the
U. P. Land
Revenue
Act.

passed under the United Provinces Land Revenue Act which are of an executive nature, e.g. appointment and dismissal, etc. of Lambardars and Patwaris, should be made non-judicial and appealable only to the Collector as a final court.

122. The Board of Revenue observe in this connexion :

“The basis, however, of all Land Revenue Administration and of the rights and duties of the agricultural community—95 per cent. of the population of the Province—is the Land Records system. Whether it is the intention of Government ultimately to retain responsibility for the maintenance of this system with the proposed Chief Revenue Court or with some other body, the Board is of the opinion that the actual maintenance of Land Records should not be the responsibility of the purely judicial original or appellate courts. Their maintenance is obviously a day-to-day administrative or executive function and for this reason the Board considers that revenue cases of a *quasi* judicial-administrative nature will have to be dealt with by Sub-divisional Officers or whatever may eventually be their equivalent. Such cases will include among others, Mutation, Correction of Papers, Demarcation, Partition, Consolidation of Holdings, and Sales cases”.

While we agree with the principle enunciated by the Board, we differ from them in the details of cases which should be treated as non-judicial.

CHAPTER VI

Miscellaneous

123. We have also received a few opinions on the trial of rent and revenue cases in the Kumaun Division. Pandit Badri Datt Kukreti, B.A., LL.B., President, Bar Association, Lansdowne, Garhwal, says :

**Trial of
Rent and
Revenue
Cases in
Kumaun
Division.**

“The land tenures in the Kumaun Division are absolutely different from those obtaining in the rest of the United Provinces and the law relating to these tenures is not codified but is based upon the various judgments of the Revenue Officers who have mostly decided the questions according to their own whims, which are often contradictory. This has caused a good deal of confusion and the courts are often faced with great difficulties in deciding the matter of jurisdiction, etc. We understand that the whole question of codifying the laws is under the consideration of the Kumaun Laws Committee. We are definitely of the opinion that the rent and tenancy law should be codified and that all suits of a declaratory nature should be triable by a civil court. In our opinion the court of the Sub-divisional Officer, as constituted at present, is over-worked as the Sub-divisional Officer is not only an Assistant Collector first class and Civil Judge with a jurisdiction of up to Rs.5,000 but also Magistrate first class. We, therefore, suggest that the Sub-divisional Officer should be relieved of his civil work immediately and separate Munsifs should be appointed to deal with the civil cases”.

We generally agree with the views expressed by Pandit Kukreti but think that consideration of the question of the trial of rent and revenue cases in the Kumaun Division should be deferred till the relevant laws in that division have been codified. It will then be possible to evolve arrangements for these cases on sound lines, as we have done in this Report for the rest of the Province,

Proceed-
ings in
Revenue
Courts
under the
Debt
Acts.

124. Messrs. Sarswati Prasad Nigam and Kashi Prasad, two leading Pleaders in the revenue courts of the Lucknow District, say in their joint memorandum that the trial of Redemption cases under section 12 of the United Provinces Agriculturists' Relief Act up to the value of Rs.500 by Assistant Collectors has proved to be a failure. Instead of the trial of such cases being speedy and economical, as was contemplated, it has proved to be very costly and a protracted one. They suggest that the trial of these cases should be transferred to civil courts.

125. Mr. Shambhu Dayal Singh, U.P.C.S. (Judicial), Civil Judge, Moradabad, considers that wherever powers are given to Assistant Collectors to hear cases of a civil nature, e.g. under section 12 of the United Provinces Agriculturists' Relief Act, or under the United Provinces Debt Redemption Act, such provisions should be repealed and cases should be allowed to go to civil courts.

126. We generally agree with the suggestion of Mr. Singh. The arrangement for the trial of cases under the United Provinces Encumbered Estates Act whereby the parent cases were decided by civil courts and execution proceedings in them were dealt with by revenue courts, has also proved to be very inconvenient and unsatisfactory. We do not propose, however, a change in the procedure at this late stage of the working of that Act when most of the cases have already been disposed of; but we suggest, for the future, that the experience gained from these cases should deter any arrangement being conceived for the trial of one case, the part of it leading to judgment and decree, and the other part dealing with the execution of that decree, in two separate sets of courts. The confusion and conflict of jurisdiction arising in such cases have patently come to light.

127. We are, therefore, of the opinion that all cases under the Debt Acts, excepting the remaining cases under the United Provinces Encumbered Estates Act, should be dealt with by the civil courts and not by revenue courts. The jurisdiction of the latter to try some of these cases should be cancelled.

Court fee
in Muta-
tion and
Correction
of Papers
Cases going
to Civil
Courts.

128. We have suggested in paragraphs 98 and 101 for disputed Mutation and Correction of Papers cases involving questions of proprietary title, being taken to civil courts. We consider that the poor cultivators going to civil courts in these cases should not be burdened with the payment of court fees prescribed for cases in civil courts, unduly severely. Accordingly we recommend that the provisions of the United

Provinces Court Fees Act should be suitably amended with a view to achieve this end.

129. We do not intend to make proposals at this stage for any change in the procedure for (a) revision of maps and records, (b) settlement of revenue, and (c) revision of assessment and other proceedings during currency of settlement, as laid down in the United Provinces Land Revenue Act. We consider that the future Settlement and Record Officers and Assistant Settlement and Assistant Record Officers, and Revision Officers, should be selected from the executive side cadre of the I. C. S. and U. P. C. S. and also from amongst Revenue Officers of the new Revenue Judiciary.

Appoint-
ment of
Settle-
ment and
Record
Officers
and
Assistant
Settle-
ment and
Assistant
Record
Officers
and
Revision
Officers.
Honorary
Courts on
Revenue
Side.

130. Out of 197 courts of the Assistant Collectors of the first class (excluding those of Sub-divisional Officers), in the Province in 1945-46, no less than 52 were presided over by Honorary Assistant Collectors ; and out of 318 courts of the Assistant Collectors of the second class, 92 were presided over by Honorary Assistant Collectors. These Honorary Assistant Collectors have disposed of 61,242 cases in 1945-46 out of a total of 704,800 dealt by the Assistant Collectors of the first and second classes. The figures for the Assistant Collectors of the first class include figures for Revenue Officers but not for Sub-divisional Officers. Similar figures for a few previous years may be obtained from the details given in Appendix VI of this Report.

131. The institution of Honorary Assistant Collectors is now pretty old, though not as old as that of Honorary Magistrates. It was abolished by the popular Ministry in 1937, but due to pressure of work on the executive branch of the civil service in the Province during the period of the war, it was again revived in 1942. Though they have been successful in disposing of a large number of cases, the Honorary Assistant Collectors as a class have never been but an unmixed evil. Mr. Dulare Lal Saksena, Legal Practitioner, Collectorate, Mainpuri, observes :

“But what is really bad in the existing system of administering the revenue and rent laws, is this that the stipendiary Assistant Collectors are wretchedly hemmed in with other multifarious duties which leave them no space of time to look

at the revenue case work, while the Honorary ones are seldom slow to make hay while the sun shines ”

132. We consider that, with some honourable exceptions, the Honorary Assistant Collectors as a class have neither been efficient, nor honest in the discharge of their judicial duties. They have also been responsible for a lot of evil influence otherwise in the judicial atmosphere of revenue courts generally. Although their abolition would entail considerable additional expenditure for the disposal of cases which they have been doing, we consider that the evil circle created by them cannot be ended otherwise. A reference to this matter has also been made in the Note of the Chairman of this Committee to the Hon'ble Minister for Revenue, which is given in Appendix III. Having considered all the aspects of the matter, therefore, we are of the opinion that all the courts of Honorary Assistant Collectors (and Collectors, if any), should be abolished. We recommend accordingly.

Strength
of
Different
Grades of
the New
Revenue
Judiciary.

133. Having proposed for a new frame for the Revenue Judiciary and having recommended the abolition of the Honorary Assistant Collectors, we have now to consider what the strength of the different grades of courts in the new Revenue Judiciary should be. We are afraid that complete data for the purpose are not available and all that we can do at this stage is to point out the lines on which this matter should be dealt with. In paragraph 74 of this Report we have suggested that a set of standard of work should be fixed for all the grades of courts in the new Revenue Judiciary. After this standard is available, it should be applied to the average number of cases to be dealt with by a particular grade of court, during the last six years or so. This calculation should be made by districts for finding out the number of Revenue Officers. There should be, in any case to start with, only one Divisional Court of Appeal at the headquarters of each division, and only three Presiding Officers in the proposed Provincial Court of Appeal. Further changes can be made as experience is gained.

134. We think that we have covered all the main topics of the questions which were referred to us for consideration and report. Some of the opinions received, however, raise a variety of other questions which are cognate to the Terms of Reference of this Committee, and these are—

(1) (a) Will the present Board of Revenue be abolished ?

- (b) If so, which authority will take over its non-judicial work ?
- (c) If not, in what form and with what strength will it continue ? And, for what work exactly ?
- (2) (a) Will the Commissioners of Divisions be abolished ?
- (b) If so, which authority will take over their non-judicial work ?
- (c) If not, in what form and with what strength will they continue ? And, for what work exactly ?
- (3) What will be the fate of the Additional Commissioners and Additional Collectors ? Will the posts be abolished ?
- (4) What will be the number of Sub-divisional Officers ? Will the areas of sub-divisions be enlarged ?
- (5) What will be the functions of the Sub-divisional Officers ?
- (6) How many Deputy Collectors will be transferred to the cadre of the Revenue Officers ?
- (7) Will the future cadre of Deputy Collectors be reduced ?

135. Mr. Bind Basini Prasad, U.P.C.S. (Judicial), late Deputy Legal Remembrancer to the Government of the United Provinces and now District Judge, Basti, has made the following observations in this connexion :

“The second question will be the abolition or at least the reduction of the posts of Commissioner and Board of Revenue and in this connexion I may invite attention to Section 246 of the Government of India Act, 1935, according to which no such post can be abolished without the sanction of the Secretary of State for India. It is hoped that Government will have no difficulty in obtaining such sanction from the Secretary of State for India.”

* * * * *

“Commissioners and Board of Revenue have a large number of other statutory functions to perform

besides those of judicial nature alone. In the event of the abolition of these posts it will be necessary for the Government to consider as to whom those functions are to be transferred."

136. These and similar other questions will evidently arise if our recommendations in this Report are accepted. They cover a very wide range and we consider that they are beyond the purview of our Terms of Reference. We would, therefore, leave them to be considered by a properly competent body at a later date, if necessary. To the inquisitive, however, an idea of the judicial work done by the members of the services to whom the above questions pertain, during the last few years, in the figures compiled in the statements in Appendix VI of this Report, will furnish an interesting material.

137. In the end the Committee would like to place on record its high appreciation of the help it received from the Secretary, Thakur Kuldip Narayan Singh, and of the labour that he put in in preparing the Report.



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CHAPTER VII

Summary of Conclusions and Recommendations

138. We give below a summary of our main conclusions and recommendations in this Report.

CHAPTER I

Preliminary

The first question for the consideration of the Committee was whether any useful purpose will be served by proceeding immediately with the task of investigation entrusted to it in view of the impending measures for (a) the abolition of Zamindari, (b) the simplification of records relating to land, and (c) the *Gaon Hukumat* Bill, 1946, and consequent amendments which will have to be made in the United Provinces Land Revenue Act and United Provinces Tenancy Act. The Committee held that its Terms of Reference pertained to certain fundamental matters which will stand even when the changes under contemplation had been brought about. So far as the question of the procedure for the trial of rent and revenue cases was concerned it was not necessary for the Committee to go into minute details. That will be for the officer or body set up to give effect to the decisions of the Committee.

CHAPTER II

Present Arrangements—Whether Adequate and Satisfactory.

The present arrangements whereby rent and revenue cases are dealt with by revenue courts are neither adequate nor satisfactory. They are not adequate because most of the courts which deal with these cases are pre-occupied with other responsibilities ; and they are not satisfactory because the cases are not heard and determined in a setting which is entirely judicial from top to bottom.

CHAPTER III

Whether Rent and Revenue Cases Should Be Dealt With by Civil Courts.

(1) The first serious objections to the trial of the rent and revenue cases in civil courts are that litigation in civil courts is cumbersome, dilatory and very expensive. Rent and

revenue cases need for them cheap and speedy process: The poor tenant will neither have the patience nor resources to stand protracted hearings of his cases in civil courts.

(2) The officers of the civil courts have no experience of the country-side in their jurisdiction, of the system of Land Records, of Survey and allied matters; and by training and acquired habits they are unsuited to be entrusted with the decision of the rent and revenue cases which require specialized knowledge.

(3) The work of the supervision of Land Records assists, and is assisted by, the case work on the revenue side. Civil courts which have no authority over the Land Records will have to face considerable difficulty in dealing with the Land Records matters and handling the Land Records staff.

(4) It will not be an advisable step to transfer the jurisdiction to try a part or whole of the rent and revenue cases, from the revenue to civil courts. The arrangement will neither be conducive to efficiency nor will it bring convenience to the litigant public.

CHAPTER IV

Changes Proposed in the Forum for Rent and Revenue Cases.

(1) The reorganization of revenue courts is over-due; but the tendency among the litigant public to go to civil courts for reversal, by back-door means, of the orders of revenue courts, is not altogether due to the fact that, on merits, they are not generally satisfied with the decisions of the revenue courts. We consider that this tendency is to a large extent due to the anxiety of the defeated parties to try their luck again in a different forum.

(2) What is required in the circumstances—and what is desired by the people—is a complete machinery for trying rent and revenue cases, which will not have responsibility for any executive or administrative work, and which will not be controlled by any authority other than judicial.

(3) The present Revenue Officers can serve as a nucleus upon which the structure of the future revenue courts may be built.

(4) There should be a separate Revenue Judiciary for the Province, consisting of a whole-time set of officers to deal with the rent and revenue cases, under the control and

guidance of a proper judicial body. But at the same time the arrangement proposed should not be unnecessarily costly.

(5) We recommend a wholly independent Revenue Judiciary, except for the lowest rung where the Tahsildar may continue to be an executive officer as at present ; but no other officer of this judiciary, excepting the Tahsildar should be saddled with any executive, administrative or criminal case work. We propose that there should be the following grades of revenue courts :

- (a) Tahsildar,
- (b) Revenue Officer,
- (c) Divisional Court of Appeal, and
- (d) Provincial Court of Appeal.

(6) The present cadre of Revenue Officers will have to be strengthened. A Senior Revenue Officer may be made the administrative head of all the Revenue Officers and Assistant Revenue Officers (Tahsildars when doing rent and revenue cases) in a district.

(7) The Revenue Officers will take over all the case work which (1) Collectors and Additional Collectors in their original jurisdiction, and (2) Assistant Collectors in charge of Sub-divisions and (3) Assistant Collectors of the first class are at present doing in districts.

(8) The Senior Revenue Officer will take over all the case work whose original jurisdiction at present vests in the Collector and Additional Collector. He will also hear appeals from the orders of Assistant Revenue Officers (Tahsildars).

(9) The Divisional Court of Appeal will deal with all the work of appeal which Commissioners and Additional Commissioners are doing at present. They will also take over on their file that appellate work of the Collectors and Additional Collectors which is not proposed to be sent to the Senior Revenue Officers.

(10) The Provincial Court of Appeal will take the place of the present Board of Revenue so far as its case work is concerned. The Presiding Officers of this Court should have the same position and privileges which are enjoyed by the Judges of the High Court and Chief Court.

(11) The recruitment of officers for different grades of revenue courts should be made by careful and judicious selection, under a proper set of rules, through the Public Service Commission.

(12) The opinions from various quarters approve of the institution of the present Revenue Officers, and also to some extent the work done by them ; but they all condemn the method by which they were recruited, and severely disapprove of the personnel selected in many cases. The Government should adopt safeguards against the undesirables among the present Revenue Officers getting into the new Revenue Judiciary.

(13) The Revenue Officers in the new Revenue Judiciary should be selected from amongst—

- (1) the Law Graduate members of the Bar who have put in five years' revenue and civil practice and are not more than thirty years of age at the time of selection ;
- (2) the present Revenue Officers who have proved themselves to be honest and efficient ; and
- (3) the present Deputy Collectors, preferably those having Law Degrees.

(14) To make sure that the Revenue Officers against whom there have been complaints, are excluded from the new Revenue Judiciary, the following two classes of persons should be debarred for the new service :—

- (1) those who have not actually practised as lawyers for the last five years or more, just preceding September 30, 1946 ; and
- (2) those Revenue Officers who have not been allowed extension as such officers on or after September 30, 1946.

(15) The maximum age limit for entry into the new Revenue Judiciary service in the case of the present Revenue Officers should be fixed at thirty five years.

(16) The achievements of the officers of the new Revenue Judiciary should be judged by a standard of work fixed for them ; and the number of officers to be appointed for various courts should be on the basis of the actual amount of work.

(17) After their selection the Revenue Officers should be given a brief course of training, extending from three to four months, in (1) maintenance and revision of Land Records, (2) Survey, (3) recording evidence, and (4) making local enquiries, etc. The training should be organized on the model of the old Civil Training Class at Moradabad.

(18) The Revenue Officers in the new Judiciary should also be given facilities for a short course of touring for about a month every year. The Revenue Officers should not have

the administration of Land Records in their charge, but they should be authorized to inspect the work of Land Records, particularly when they are on tour. They should not, however, be entrusted with any other duties unconnected with their case work while on tour.

(19) The Revenue Officers in the new Revenue Judiciary should have the same status and should get the same emoluments as members of the United Provinces Civil Service (Executive) or (Judicial).

(20) The Presiding Officers of the Divisional Courts of Appeal should be selected from amongst :—

(1) the Law Graduate members of the Bar who have put in ten years' revenue and civil practice and are not more than forty five years of age at the time of selection ; and

(2) members of the cadre of : (a) I. C. S. and (b) U. P. C. S. on the executive side, and (c) Revenue Officers, who have done revenue case work for at least ten years and are not more than forty five years of age.

(21) The proportion of the members of (a) Bar and (b) services in the cadre of Presiding Officers of the Divisional Courts of Appeal should be 50 : 50.

(22) The Provincial Court of Appeal should have a minimum strength of three Presiding Officers ; and it should sit in a Bench of two to hear appeals or revisions.

(23) The Presiding Officers of the Provincial Court of Appeal should be selected from amongst :—

(1) the Law Graduate members of the Bar who have put in ten years' revenue and civil practice and are not more than fifty years of age at the time of selection ; and

(2) members of the cadre of (a) I. C. S. and (b) U. P. C. S., on the executive or judicial side, and (c) Revenue Officers, who have done revenue case work for at least ten years and are not more than fifty years of age.

(24) The proportion of the two sources mentioned in clauses (1) and (2) of paragraph 23 above shall be 2 : 1, i.e. two from Bar and one from services.

(25) The Revenue Officers should, wherever it is possible to appoint a separate Revenue Officer for a tahsil, sit at the headquarters of tahsils ; otherwise they should sit at the headquarters of districts. The Senior Revenue Officers will hold their courts at the headquarters of districts.

(26) The Divisional Courts of Appeal should sit in sessions at the headquarters of each district in the division at suitable intervals.

(27) The Provincial Court of Appeal should sit at Allahabad.

(28) There should be no regular hearing of a rent or revenue case in camp.

CHAPTER V

Changes Proposed in the Procedure for Rent and Revenue Cases.

(1) The procedure for hearing rent and revenue cases should be so revised as to :—

- (1) simplify the proceedings ;
- (2) avoid duplication in litigation ;
- (3) cut down the number of appeals ; and
- (4) provide solution for conflict of jurisdictions.

(2) The number of appeals should be reduced. There should be no second appeal on a question of fact. A second appeal in rent and revenue cases should be permitted only on the grounds specified in section 100 of the Code of Civil Procedure.

(3) Appeals should lie from the decisions of the Tahsildar (Assistant Revenue Officer) to the Senior Revenue Officer or to a Revenue Officer in the district specially empowered in this behalf. A second appeal in such cases should lie to the Divisional Court of Appeal only on the grounds specified in section 100 of the Code of Civil Procedure.

(4) Appeals should lie from the decisions of the Revenue Officer to the Divisional Court of Appeal. A second appeal in such cases should lie to the Provincial Court of Appeal only on the grounds specified in section 100 of the Code of Civil Procedure.

(5) The following procedure should be adopted for simplifying litigation in Mutation proceedings :—

- (1) In cases for Mutation of names under sections 34 and 35, United Provinces Land Revenue Act, which become contested, the files should be submitted to the Revenue Officer immediately and there should be no further enquiry of any kind in the court of the Tahsildar.

- (2) The Revenue Officer should decide these cases summarily, on the basis of *prima facie* title, and not of possession, as is done at present.
- (3) No appeal or revision shall lie in revenue courts against such decision of the Revenue Officer.
- (4) The party not satisfied with the decision will, however, have the option, as at present, of obtaining a declaration about its title from the civil court.
- (5) The undisputed Mutation cases shall continue to be disposed of by the Tahsildar as at present.
- (6) Similarly, the following procedure is recommended for the trial of Correction of Papers cases under the United Provinces Land Revenue Act : —

- (1) All undisputed cases relating to Correction of Papers should continue to be disposed of by the Tahsildar, on the same lines as undisputed Mutation cases.
- (2) All disputed cases relating to Correction of Papers which involve questions of tenancy rights, should be decided by Revenue Officers in a regular manner, after framing issues and joining necessary parties, according to the procedure laid down in section 42, United Provinces Land Revenue Act.
- (3) In disputed cases relating to Correction of Papers which involve questions of proprietary title, the parties concerned should be directed to obtain a declaration about their rights from the civil court and no existing entries should be disturbed except on the basis of the judgments of civil courts in the matter.
- (4) All other disputed cases relating to Correction of Papers should also be heard by Revenue Officers.
- (5) As soon as a case relating to Correction of Papers becomes contested, the Tahsildar should forward the proceedings to the court of Revenue Officer without making any further enquiries into it on any ground. The Revenue Officer should deal with the case himself thereafter.
- (6) All decisions of Revenue Officers in Correction of Papers cases should be appealable to the Divisional Court of Appeal ; and a second appeal should also lie to the Provincial Court of Appeal on grounds specified in section 100 of the Code of Civil Procedure.

(7) All Correction of Papers cases should be decided on the basis of title, and not of possession as laid down in section 40, United Provinces Land Revenue Act.

(7) There should be no unnecessary attempt at settlement of disputes in courts on the revenue side if their final settlement rests with the civil courts.

(8) Regarding clauses 72, 73 and 74 of the United Provinces *Gaon Hukumat* Bill, 1946, we consider:—

(1) That the *Adalti Panchayats* should not be authorized to hear cases under sections 34 and 35, United Provinces Land Revenue Act, relating to properties paying an annual land revenue of more than Rs.50.

(2) That the *Adalti Panchayats* should not be authorized to hear cases under sections 39 and 42, United Provinces Land Revenue Act, which involve decisions of tenancy rights relating to properties paying an annual rent of more than Rs.100.

(3) That the *Adalti Panchayats* should decide cases, relating to Mutation and Correction of Papers in a summary manner. The parties not satisfied with their decision in Mutation cases should have the option to take their cases to regular civil courts for declaration of their rights. Similarly, in cases of Correction of Papers, involving tenancy rights, parties not satisfied with the decisions of *Adalti Panchayats* should be free to take their cases to Revenue Officers. In all other cases there should be no appeal from the orders passed by the *Adalti Panchayats* in proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act, but the Senior Revenue Officers or Revenue Officers should have the power of revision either upon reference made to them or on their own motion.

(9) The work of Partition cases under the United Provinces Land Revenue Act should be entrusted to the whole-time Revenue Officers. This work requires specialized knowledge and, therefore, all the Partition cases in a district should be given to one particular officer.

(10) In suits for Partition of *mahals*, all questions involving proprietary rights should be referred to civil courts. Section 111(1), United Provinces Land Revenue Act should be so amended as to require Partition courts to refer questions of proprietary title to civil courts, much in the same way as under section 286, United Provinces Tenancy Act. There should be provision for an appeal against the finding of the civil court on such issues to a higher court on the civil side.

(11) In Partition cases, first appeals from the orders of Revenue Officers should lie to the Divisional Court of Appeal, and second appeals on grounds specified in section 100 of the Code of Civil Procedure, to the Provincial Court of Appeal.

(12) We are definite about the principle of issues relating to proprietary titles being invariably heard and determined by civil courts.

(13) As a general rule, all cases, including those mentioned at serial nos. 20, 21 and 22 of Group B of the Fourth Schedule of the United Provinces Tenancy Act, which involve issues relating to proprietary rights in them, should be transferred by the revenue courts to civil courts for complete disposal, and not only for findings on particular issues relating to proprietary rights, as is done at present under section 286, United Provinces Tenancy Act.

(14) Civil suits in which issues of tenancy rights are involved should be disposed of completely by civil courts, and issues in them relating to tenancy rights should not be remitted for findings to revenue courts, as is done at present under section 288, United Provinces Tenancy Act.

(15) The difficulty of conflicting rulings between the Board of Revenue and the High Court (or Chief Court) can be obviated by making a definite provision in the law that for the decision of cases under the United Provinces Tenancy Act and issues relating to tenancy rights, the interpretation of law as made by the highest revenue court shall be final and binding upon all courts, including those on the civil side; or if for any reason this suggestion is not found to be sufficiently effective, a provision should also be made for a reference to the Federal Court of India for authoritative ruling, by the High Court or Chief Court, if it finds that it does not agree with any interpretation of law given by the Provincial Court of Appeal on the revenue side, and by the latter, similarly, if it finds that it does not agree with any interpretation of law given by the High Court or Chief Court.

(16) In cases of conflict of jurisdiction between civil courts and revenue courts also, references should, similarly, be made to the Federal Court of India for authoritative ruling, as has been suggested in paragraph 15 above for conflicting rulings on the interpretation of law.

(17) For the facility of petty landholders it is necessary to provide for the division and exchange of lands under proprietary cultivation, in the United Provinces Tenancy Act, on the lines similar to those in sections 49, 50, 51, 52 and 53 of that Act.

(18) The applications under section 163, United Provinces Tenancy Act, are of considerable importance to tenants, and should be made triable by Revenue Officers instead of by Tahsildars.

(19) With an independent whole-time Revenue Judiciary it will no longer be necessary to provide for any of the appeals from the orders of the Presiding Officers on the revenue side to be heard by the Presiding Officers on the civil side, as is prescribed in the Fourth Schedule of the United Provinces Tenancy Act. All such appeals should, in the new arrangement of things, lie to the Divisional Court of Appeal.

(20) All administrative matters under the United Provinces Land Revenue Act, e.g. maintenance and supervision of Land Records, transfers and punishments of Patwaris and Karungos, collection of revenue, and appointment and dismissal of Lambardars, should continue to be dealt with by the executive officers as at present, and should not be entrusted to the officers of the proposed Revenue Judiciary. The Collector should be made the final court of appeal in such cases.

CHAPTER VI

Miscellaneous

(1) The consideration of the question of the trial of rent and revenue cases by a separate set of courts in the Kumaun Division should be deferred till the relevant laws in that division have been codified.

(2) All cases under the Debt Acts, excepting the remaining cases under the United Provinces Encumbered Estates Act, should be dealt with by the civil courts and not by revenue courts. The jurisdiction of the latter to try some of those cases should be cancelled.

(3) We have suggested for disputed Mutation and Correction of Papers cases involving questions of proprietary title being taken to civil courts. We recommend that the provisions of the United Provinces Court Fees Act should be amended suitably so that the poor cultivators going to civil courts in those cases may not be burdened with the payment of court fees prescribed for cases in civil courts, unduly severely.

(4) The future Settlement and Record Officers and Assistant Settlement and Assistant Record Officers, and Revision Officers, should be selected from the executive side cadre of the I. C. S. and U. P. C. S. and also from amongst Revenue Officers of the new Revenue Judiciary.

(5) Though they have been successful in disposing of a large number of cases, the Honorary Assistant Collectors as a class have never been anything but an unmixed evil. With some honourable exceptions, the Honorary Assistant Collectors have neither been efficient, nor honest in the discharge of their judicial duties. They have also been responsible for a lot of evil influence otherwise in the judicial atmosphere of revenue courts generally. We recommend that all the courts of Honorary Assistant Collectors (and Collectors, if any) should be abolished.

(6) When a set of standard of work has been fixed for all the grades of courts in the new Revenue Judiciary, it should be applied to the average number of cases to be dealt with by a particular grade of court, during the last six years or so, to find out the number of officers to be appointed for a particular area. This calculation should be made by districts for finding out the number of Revenue Officers. To start with, there should be only one Divisional Court of Appeal at the headquarters of each division, and only three Presiding Officers in the proposed Provincial Court of Appeal.

CHARAN SINGH.

BAIJ NATH.

*Z. H. LARI.

VISHWAMBHAR DAYAL

TRIPATHI.

*SHRI GOPAL SINGH.

*K. N. SINGH.

RADHA MOHAN SINGH.

MUHAMMAD ISHAQ KHAN.

AJIT PRASAD JAIN.

APPENDIX I

Notes and Minutes of Dissent by Members of the Committee

(1)

*Minute of Dissent by MR. ZAHIRUL HASNAIN LARI, M.A.,
LL.B., M.L.A.*

PETTY nature of revenue cases and necessity to dispose them off quickly may be grounds, though to me of doubtful validity, for maintaining separate original courts for trying revenue cases in the form of Revenue Officers, but I do not find any reason whatsoever for establishing new courts of appeal as suggested in the Report. It is easy to start new courts but impossible to associate with them healthy traditions and an independent Bar which are essential to ensure real dispensation of justice. It is common knowledge that both are lacking in the case of Commissioners and Board of Revenue, and it will be difficult, if not impossible, to foster them around new proposed courts. The appellate work may and should be entrusted to the District Judge and High Court as suggested by Mr. Justice M. H. Kidwai and Mr. Bind Basini Prasad. Civil work is on the decrease and the two courts can conveniently deal with revenue appeals as well. This system will also inspire greater confidence in the litigant public.

Z. H. LARI.

(2)

Minute of Dissent by THAKUR SHRI GOPAL SINGH, M.A., LL.B., U.P.C.S. (Judicial), Deputy Legal Remembrancer and Deputy Secretary, Judicial Department and THAKUR KULDIP NARAYAN SINGH, B.A., F.R.A.S., U.P.C.S. (Executive), Deputy Secretary, Labour, Industries and Excise Departments.

We desire to place on record our note of dissent on the following two points in the Report about which we feel rather strongly :

- (1) In paragraph 78 of the Report it is provided that the proportion of the members of (a) the Bar and (b) services in the cadre of the Presiding Officers of the Divisional Courts of Appeal should be 50 : 50. In our opinion when the entire cadre of Revenue Officers is going to be manned by the members of the Bar, the posts of Presiding Officers of the Divisional Courts of Appeal should be filled up entirely by promotion from the cadre of (a) I. C. S. and (b) U. P. C. S., on the executive side, and (c) Revenue Officers, who have done revenue case work for at least 10 years. There should be no direct recruitment from the Bar to the cadre of the Presiding Officers of the Divisional Courts of Appeal.
- (2) In paragraph 81 of the Report as originally drafted, the proposal was that, of the three Presiding Officers of the Provincial Court of Appeal, there should be one from the Bar, and two from services, one from the revenue side and the other from civil side. It was further added that if it became necessary to appoint more Presiding Officers in the Provincial Court of Appeal than three, the remaining seats should be filled up from the Bar and services on the revenue side, in the proportion of 50 : 50. The Committee has, in its final sitting on February 22, 1947, reversed the order and decided that the proportion of the two sources should be 2 : 1 i.e. two from the Bar and one from services. We consider that this arrangement will not be fair to the services and are of the opinion that the proportion originally given in the Draft Report should stand.

2. It is not necessary for us to give any detailed reasons for our views. These are obvious. Unless adequate scope for promotion is given to the services, particularly to the Revenue Officers who are initially to be recruited from amongst the members of the Bar, they will lose all initiative and charm for efficient and honest discharge of their duties in a sustained manner. The only outlet for promotion to Revenue Officers will be as Presiding Officers of the Divisional Courts and then ultimately as Presiding Officers of the Provincial Court. These posts will be very limited ; and if restrictions are further made by recruiting members of the Bar directly again to these posts, the services will feel very much disparaged. We consider that to avoid this state of things there should be no direct recruitment as Presiding Officers of the Divisional Courts of Appeal from the Bar ; and that out of the three first seats on the Provincial Courts of Appeal, only one should go to the Bar, and if subsequently some more seats are added, they should have 50 per cent. of it.

K. N. SINGH.

SHRI GOPAL SINGH.



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APPENDIX II

A few selected opinions received

(1)

Opinions recorded by the Hon'ble Chief Judge and the other Hon'ble Judges of the Chief Court of Oudh.

I SHOULD defer any alterations in the procedure at present existing as impending changes may completely modify the Tenancy and Revenue Acts.

GHULAM HASAN,

Chief Judge.

I AM in general agreement with the views expressed by the Hon'ble M. H. K., J. but since the projected scheme for abolition of the Zamindari system in this province is bound to bring about considerable changes in the tenancy and revenue legislation, I am inclined to think that no major changes in the system of trial of rent and revenue cases should be affected for the present. When the entire picture of the shape of things to come is available, a comprehensive scheme for judicial administration of rent and revenue cases can be evolved.

L. S. MISRA,

Judge.

I SHOULD prefer the present system to be maintained. In Mutation cases the question of possession arises, or, if that is doubtful, *prima facie* title. It is better for these points to be decided by a revenue court rather than by a civil court which may ultimately have to thrash out the question of title finally. The transfer of all cases from the jurisdiction of the revenue courts to the civil would cause great dislocation, and involve a tremendous burden for the civil courts. Moreover, I think that the supervision of the Land Records done by Revenue Officers assists, and is assisted by, their case work.

W. Y. MADELEY,

Judge.

I AM in general agreement with the opinion expressed by the Hon'ble M. H. K., J. but would like to point out that any reforms effected now may be found to be inadequate or made not in the right direction five years hence. Everything is in the melting pot and it is difficult to visualize the shape of things to come with any degree of accuracy. In these circumstances it may be advisable to pause a little and wait till we can form a more definite idea of the changes to be effected in our tenancy law.

P. K. KAUL,
Judge.

— — —
I AM in agreement with the opinion expressed by the Hon'ble M. H. K., J.

H. G. WALFORD,
Judge.

— — —
THERE can be no doubt that the present system of the trial of rent and revenue cases by officers who are principally executive officers and whose first concern is administrative business, is wholly unsatisfactory and should be altered. The litigant is put to considerable trouble and expense in having his case repeatedly adjourned owing to the Presiding Officer being busy in his executive duties or in his work as a Magistrate. Very often too cases are taken up on tour and this involves heavy expenditure in taking counsel out and paying for his conveyance, etc. It was for this reason that, while there is objection to individuals, the system of having Revenue Officers has been generally approved. Moreover persons whose principal business is the performance of executive work do not usually make good judicial officers. A different type is required for the two kinds of work.

The question of suggesting alternatives is, however, more complicated and involves a consideration of the problems of finance and administrative convenience. I am afraid that I do not know the amount of the work of various kinds that the revenue courts have to dispose of. I do know, however, that during recent times some districts have had to employ one and others two Revenue Officers, in addition to the ordinary district staff to dispose of all the cases and that, in most divisions, Additional Commissioners have been employed. The Board of Revenue too has had an Additional Member. This indicates that work has considerably increased since the passing of the Tenancy Act. Moreover, we do not know what kind of work revenue courts will be called upon

to perform if the scheme for abolition of Zamindari comes off at an early date. The suggestions that I can make must, therefore, be based on the present state of the law and on the basis of the incomplete data available.

One alternative would be to continue the present system of Revenue Officers and to establish a regular gradation of revenue courts which should dispose of all cases relating to rent and revenue. The difficulty is that most probably, now that things are settling down, and the law is becoming clear, there would not be enough work, particularly in the courts of appeal. Another alternative is to transfer all the work to civil courts but this will involve difficulties in cases of a petty nature which are now dealt with by Tahsildars because a Munsif, the lowest civil judicial officer, is much more highly paid than the Tahsildar and moreover Tahsildars hold their courts at the headquarters of the Tahsil while the Munsif holds his court at the district headquarters. I would suggest that business be distributed as follows :

(I) Tenancy Act Cases

(a) All cases at present triable by Tahsildars should continue to be triable by Tahsildars.

(b) Assistant. Collectors should continue to try cases mentioned in Schedule IV, Group B at items 1, 2, 7, 8, 9, 10, 11, 12, 14, 15, 20, 21, 22 and all cases in Group D except those mentioned at items 10 and 11.

(c) Collectors should continue to try cases mentioned in Schedule IV, Group E.

(d) All other cases arising under the Tenancy Act should be triable by Civil Courts and whenever a Tahsildar has to report a case he should refer it to a civil court.

(e) All appeals should come to the District Judge and the Chief Court or High Court.

(II) Cases under the Land Revenue Act

All cases under the Land Revenue Act should be tried by the courts at present empowered to try them but in Mutation cases, if there is a contest, the Tahsildar, instead of forwarding the case to the Sub-divisional Officer, should forward it to the civil court for disposal.

M. H. KIDWAI,

Judge.

(2)

Opinion recorded by the Board of Revenue, United Provinces (consisting of Mr. M. H. B. NETHERSOLE, C.S.I., C.I.E., D.S.O., I.C.S., Senior Member, Mr. J. E. PEDLEY, C.S.I., C.I.E., M.C., I.C.S., Junior Member, and Mr. H. S. BATES, I.C.S., Additional Member).

THE appointment of Revenue Officers with purely judicial functions has accelerated very appreciably the disposals of suits and applications. The quality of the work of these courts has inevitably varied but viewed as a whole the work done by them has fully justified the appointment of whole-time Revenue Courts.

2. Few will dispute that the amount of revenue litigation in the Province and the time, labour and money it involves are out of all proportion to the benefit conferred upon the agricultural community. Drastic steps should be taken to reduce it. This can be most effectively done in two ways, firstly by amendment of the Rent and Revenue and related Acts in such a way as to curtail the rights of appeal and revision and to ensure the earlier and more speedy final decision of disputes and, secondly, the establishment of whole-time Revenue Original and Appellate Courts.

3. The first of these ways is not included in the Terms of Reference of the Press Communique and will presumably be considered by the Legislature and Government independently. As regards the second, the Board is strongly of opinion that nothing is to be gained but a great deal to be lost by saddling the civil courts with Revenue Judicial work. The delays in those courts are already notorious and while they can possibly be explained, if not justified by the complicated nature of a large number of civil disputes, it is altogether improper that revenue suits, in the vast majority of small valuation, should be kept pending final decision in Appellate Courts for two or more years. There should, therefore, be established a separate Revenue Judicial Department of Original and Appellate Courts and a final Court of Appeal or Chief Revenue Court, whatever may be its designation.

4. The basis, however, of all Land Revenue Administration and of the rights and duties of the Agricultural Community—95 per cent. of the population of the Province—is the Land Records system. Whether it is the intention

of Government ultimately to retain responsibility for the maintenance of this system with the proposed Chief Revenue Court or with some other body, the Board is of opinion that the actual maintenance of Land Records should not be the responsibility of the purely judicial Original or Appellate Revenue Courts. Their maintenance is obviously a day-to-day administrative or executive function and for this reason the Board considers that revenue cases of a *quasi-judicial-administrative* nature will have to be dealt with by Sub-divisional Officers or whatever may eventually be their equivalent. Such cases will include among others, Mutation, Correction of Papers, Demarcation, Partition Consolidation of Holdings and Sales cases.



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(3)

Opinion recorded by MIRZA HAIDER BEG, Advocate, Civil Courts, Jaunpur.

THE present arrangements whereby cases relating to rent and revenue are dealt with by revenue courts are not unsatisfactory. Some of the rent and revenue cases are simple in their nature, such as cases for Determination, Commutation, Enhancement and Arrears of Rents. These cases are easily disposed of by revenue courts, under the present arrangements, as they admit of no difficulty. The instances can be multiplied and there are many cases both under the United Provinces Land Revenue Act and the United Provinces Tenancy Act which are adequately dealt with by revenue courts. Cases for Mutation and Correction of Papers also present no difficulty and it would be sheer waste of time and money, if civil courts are made to decide them.

No doubt, cases under sections 49 and 59, United Provinces Tenancy Act, sometimes, involve complicated questions of law and fact and require elaborate and careful handling. With the appointment of Revenue Officers most of whom are law graduates and have been practising lawyers like judicial officers, these cases have received better and able handling and the fear of their bad handling in their original trial has been fully removed. But if appeals against judgments, in cases like these, are made to be preferred to the civil courts, the matter is likely to be better thrashed out there than in the courts of the Commissioners under the present arrangements. In permanently settled districts questions of heirship to and devolution of interest in fixed-rate tenancy land do often arise, which can better be tackled with by the Appellate Civil Courts. The civil courts are already burdened with enough of civil work and if the trial of these suits are transferred to them, in their original jurisdiction, they are likely to be over-burdened, probably beyond their capacity, in as much as the cases under these two sections of the United Provinces Tenancy Act are growing in number everyday. In addition to this the procedure practised by the civil courts are too cumbersome and prolonged and involve great delay and expense in their nature. If the original jurisdiction with regard to these cases is transferred to them, their trial is likely to be prolonged and expensive, as it is a matter of common knowledge that cases take their languid course in civil courts, while they are speedily disposed of in revenue courts in a comparatively

shorter period of time involving lesser expenses. But the sifting of the matter by the civil courts in appeals shall seem to be a sound proposal.

It is further suggested that no issue on the plea of tenancy raised in the civil court should be remitted to the revenue court under section 288, United Provinces Tenancy Act for finding. Under Explanation 4 to the above quoted section, the finding of the revenue court on the issue referred to is deemed for the purposes of appeal to be part of the finding of the civil court. Why not then confer jurisdiction upon the original civil court to record its finding also on it? Sometimes anomalous position arises. I cite the following as an example :

A has brought a suit in the civil court against *B* for cancellation of a sale deed, executed by his father *C*, on the ground of its invalidity for one reason or the other. *B*'s defence is that *A* is not the son of *C*, that the sale deed is valid and genuine and that he is the tenant of the vended land. The civil court shall frame the following issues :

- (1) Whether *A* is the son of *C* ?
- (2) Whether the sale deed executed by *C* in favour of *B* is valid and genuine ?
- (3) Whether *B* is the tenant of the disputed land ?

The last issue shall have to be remitted to the revenue court for finding under section 288, United Provinces Tenancy Act. The revenue court comes to a finding for reasons of its own that *B* is not the tenant of the disputed land and sends back the case to the civil court. On this finding the suit is to be decreed. The latter court shall then start with recording its findings on the first two issues. If the civil court comes to a finding that *A* is not the son of *C*, it shall dismiss the suit, though *B* has not been held to be the tenant of the land; and further if it comes to a finding that the sale deed was valid and genuine, it shall also dismiss the suit though *B* was held not to be the tenant of the disputed land. In all such circumstances, the time and labour spent by the revenue court in determining the issue of tenancy and the expenses incurred by the parties shall have to be simply wasted. Instances like these can be well multiplied and such cases do often arise. Under the circumstances, it is suggested that either the civil courts should be made to try all issues including the issue of tenancy, or a provision be made that in cases of this nature, the other inter-dependent issues be tried first by the civil court before the issue of tenancy is remitted to the revenue court.

(4)

*Opinion recorded by MR. SHAMBHU DAYAL SINGH, U.P.C.S.
(Judicial), Civil Judge, Moradabad.*

1. Jurisdiction under Land Revenue Act and the United Provinces Tenancy Act is at present exercised by—

- (1) Board of Revenue,
- (2) Commissioners,
- (3) Collectors,
- (4) Assistant Collectors, first class,
- (5) Assistant Collectors, second class, and
- (6) Tahsildars.

It is proposed in the scheme below to have only three revenue courts, viz.—

- (1) Board of Revenue,
- (2) Collectors, and
- (3) Assistant Collectors and only certain powers for Tahsildars.

2. An attempt has also been made towards the close of this memorandum to indicate what the ultimate formation of courts in the province should be and it is suggested that in any reorganization of revenue courts, this ultimate aim, if it appeals to the members of the Reorganization Committee, should be kept in view.

3. Revenue cases at present tried by Assistant Collectors arise out of the Land Revenue Act, the United Provinces Tenancy Act and certain other miscellaneous Acts. Cases arising out of the Land Revenue Act are mostly those which relate to maintenance of revenue records, assessment of land revenue and the like. But Partition cases filed under the Land Revenue Act also involve questions of proprietary title, at times giving rise to intricate questions of law and fact.

4. Cases arising under the United Provinces Tenancy Act are of a variety of nature. Partition suits under section 49 of the Act are almost akin to civil cases. Cases under Chapter VI are more or less like disputes under the Land Revenue Act and relate to determination and modification of rent. Cases under Chapter XII are disputes between rival proprietors and are purely of a civil nature. Cases relating to rent-free grants under Chapter IX also give rise to intricate proprietary questions. Cases under section 180 have been a constant source of conflict between the Legislature on the one hand and the High Court on the other. In every successive amendment in the Tenancy Act the

Legislature has tried to oust the jurisdiction of civil courts to try cases against trespassers and the High Court sticks to its view that such jurisdiction cannot vest exclusively in revenue courts. Then there are suits for the recovery of rent and the like. They are cases mostly of small cause nature.

5. The division of suits in Groups A and B of the Fourth Schedule of the Tenancy Act has a certain background behind it. Suits classed in Group A are those which are considered mainly of a civil nature, though tried on the revenue side. And that is why such cases have to go to the civil courts for the hearing of appeals. Then there are suits classed in Group B. They are treated as purely revenue cases, and appeals therein lie on the revenue side. There are certain proceedings which are initiated in the form of applications. They are grouped under Groups C to F. They are either purely cases of civil nature, or though treated judicially, are matters with an administrative bias. In the case of such applications also appeals lie on the revenue side.

6. Reorganization of the revenue courts seems to have been long overdue. The public generally does not seem to be satisfied with the revenue court decisions when questions involving title, whether to proprietary or tenancy rights, are concerned. It is for that reason that attempts are made to bring the real dispute between the parties within the purview of the civil courts in some form or other, by twisting facts or the law, by means direct or indirect, or by ways fair or foul. In spite of section 180 of the Tenancy Act cases continue to come to Civil Courts for the ejectment of trespassers. Questions of proprietary title or jurisdiction are raised in revenue cases so as to make the appeal lie in civil courts. Questions relating to succession to tenancy rights is attempted to be decided by civil courts in indirect form, for example by raising the question of succession to non-tenancy property, or say the standing crop of a field or some such thing, in the first instance or even after the main question is decided by the revenue courts, so as to find out a means to obtain the reversal of the previous decision.

7. With a view to avoid conflict of jurisdiction, to provide for better trial of cases of more or less a civil nature and with a view to have as many cases heard in a judicial atmosphere as possible the present jurisdiction of revenue courts should be split up. Revenue Courts should retain jurisdiction only in such cases as relate to maintenance of revenue records, assessment of land revenue and rent and matters which are

treated purely of revenue in nature or which are of more or less administrative nature. Others should go to Civil Courts. And any attempt to transfer jurisdiction to revenue courts even in purely civil cases should be put a stop to, e.g., provisions like those in section 12 of the Agriculturists' Relief Act empowering revenue courts to redeem mortgages should be repealed.

8. It is, therefore, proposed that—

I. *Cases under Land Revenue Act.*—They should continue to be heard and decided by Assistant Collectors. But in suits for Partition of *mahals*, all questions involving proprietary title should be referred to civil courts. Section 111(1) of the Land Revenue Act should be so amended as to require Partition courts to refer questions of proprietary title to the civil courts (much in the same way as section 286 of the United Provinces Tenancy Act). The law should provide an appeal against the finding on such proprietary questions to the higher civil courts just as against civil court decrees.

II. *Cases under the Tenancy Act.*—The present classification of suits under the Tenancy Acts into Group A and B of the Fourth Schedule should be retained with such modifications here and there as are considered expedient. Suits of group A should be heard and decided by civil courts. Section 180(1) of the United Provinces Tenancy Act should be repealed and all suits against trespassers should go to civil courts [sub-section (2) of section 180 might be retained so as to give trespassers of more than three years' standing tenancy rights in the land]. All other cases of Group B should continue to be heard by Assistant Collectors.

Applications under Groups C to F should continue to be heard by Assistant Collectors.

III. *Cases under other Acts.*—Wherever powers are given to Assistant Collectors to hear cases of a civil nature, e.g., under section 12 of the Agriculturists' Relief Act, or under the Debt Redemption Act, such provisos should be repealed and cases should be allowed to go to civil courts.

IV. *Appeals.*—All orders of Assistant Collectors of the first class (there should be only Assistant Collectors under the proposed scheme) should be appealable to Collectors (or to Assistant Collectors with the powers of a Collector) and the second appeal should lie to the Board. The court of Commissioner should be abolished. In cases involving semi-proprietary rights appeals might lie to civil courts

e.g. in cases of Partition under section 49, or in cases involving succession to tenancy rights. This should be a subject of a separate detailed study.

In cases of execution of civil court decrees, all orders passed by sale officers should be appealable to civil courts.

V. *Cases of small cause nature.*—The Small Cause Court Act should be amended so as to include suits for ground rent within the jurisdiction of Small Cause Courts. Thus suits for rent covered by serial nos. 1 to 6 in Group A of the Fourth Schedule of the United Provinces Tenancy Act should be cognizable by Small Cause Courts. Whenever, of course, questions of proprietary title are raised, such suits would be referable to civil courts on the regular side.

VI. *Establishment of Courts.*—If the above suggestions are accepted, it should not be necessary to have a separate cadre of revenue officers. The present Sub-divisional Officers will be able to dispose of such revenue cases as still lie on the revenue side. Their number would be comparatively small. These Sub-divisional Officers would get all the more time if and when separation of executive and judicial functions is introduced.

Here I might digress and say that in order to accomplish separation of judicial and executive functions Munsifs should be empowered under the Criminal Procedure Code to try criminal cases. There should be nothing like Judicial Magistrates and Executive Magistrates. A Magistrate is a Magistrate and cannot always have a perfect judicial temperament. And it is also not necessary to have Magistrates of the first, second or third class. There should be only Magistrates, Assistant Collectors and Munsifs. Magistrates will be executive officers of the Government and should have powers to deal with administrative or executive matters under the Criminal Procedure Code, e.g. under sections 107 to 110, 144 and so on. But all criminal cases on the judicial side should be triable by either Munsifs or Sessions Judges. Thus Sub-divisional Officers who will be Magistrates, should have administrative and executive powers under the Criminal Procedure Code on the criminal side and powers of an Assistant Collector to deal with revenue cases of the nature stated above on the revenue side. Munsifs will have powers to deal with all civil and criminal judicial cases. It should be the function of a Magistrate to maintain law and order. It will be for the Munsif to administer the law.

Each tahsil or sub-division should thus have a Sub-divisional Magistrate and a Munsif to begin with. Additional courts would be established to cope with the amount of work, if the work so justifies (in districts like Meerut it may be necessary to have two Munsifs for each tahsil). There should be one Small Cause Court in every district to deal with all money suits and Civil Judges to try civil cases of higher valuation, to try cases of Assistant Sessions Judge, to hear civil and criminal appeals from the decisions of Munsifs and revenue appeals from the decisions of Assistant Collectors, which lie on the civil side. Each district should have a District and Sessions Judge, just as each district has a Collector, a Superintendent of Police or a Civil Surgeon but with a status superior to them. He will be in complete administrative charge of the District Judiciary and try sessions cases, hear such appeals from the decisions of Civil Judges, as lie to him under the law, such appeals, civil or criminal, from the decisions of Munsifs, and revenue appeals from those of Assistant Collectors (as lie on the civil side), as he finds time to hear, and also decide such civil cases as lie within his exclusive jurisdiction.

If jurisdiction to try cases of Group A of the Fourth Schedule of the Tenancy Act is transferred to Civil Courts, the classification of Assistant Collectors as those of the first and second class need not be retained. It will be enough to have one class of Assistant Collectors. Certain powers may, of course, be given to Tahsildars, which they will exercise as Tahsildars.

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Opinion recorded by MR. BIND BASINI PRASAD, U.P.C.S. (Judicial), late Deputy Legal Remembrancer to the Government of the United Provinces and now District Judge, Basti.

I GIVE below my opinion on the questions referred by the Government to the Revenue Courts Reorganization Committee and request you to place the same before the Chairman of the Committee.

Approach to the problem

The question before the Committee should not be considered in isolation. It should be looked at in relation to the larger problems of the administration of justice. There are three main functions of the State (1) Executive, (2) Judicial and (3) Legislative. All authorities throughout the world are now agreed that agencies for the discharge of these functions of the State should be separate from, and independent of, each other, as this is conducive to efficiency. In this country there has been a long standing demand for the separation of the executive from the judiciary functions.

The position at present is that the rent and revenue cases are tried by officers who have both judicial and executive functions. The system of Revenue Officers dealing with such cases is a recent innovation and is as yet not on a permanent basis. From all what I know I can say that this new system has improved the method of disposal of revenue cases. I do not mean to suggest that the permanent Executive Officers who have to deal with rent and revenue cases are not capable of deciding them impartially or that they are unaware of the principles of the law which are to be applied. I know some of them are quite capable officers and would turn out to be good judicial officers, if judicial work alone was entrusted to them. But human nature being what it is, they are compelled sometimes by circumstances to give a secondary importance to judicial work when they are faced with urgent executive work e.g., the quelling of riots, enquiry into agricultural calamities, emergent war work, camping in their jurisdiction etc. On such occasions the rent and revenue cases have to be adjourned at short notices and the parties are put to unnecessary expenses. The judicial functions are sometimes apt to be prostituted for executive work e.g., raising of loans or subscriptions.

I am definitely of opinion that laws should be faithfully followed and administered in courts. It is for the Legislature to lay down the law. But it is for the courts to give effect to it. If there is any defect in the law it is for the Legislature to set it right and not for the courts. The courts may well invite the attention of the Government to the defects in the law. Now, for the proper application of the law it is very necessary that the presiding officer of the court should have ample time to study and consider them. With the multifarious duties cast upon the executive officers, it is too much to expect from them to bestow the requisite time and thought to the study of the law. Judicial work has now become a kind of specialized work and one who is charged with that duty should be allowed to give his whole time to it.

For the above reasons the first conclusion at which I have reached is that the entire judicial work done by rent and revenue courts at present should be transferred to the civil courts. Although administration of justice by the courts at present is not free from its own faults yet it cannot be denied that by the manner of discharge of their functions the civil courts taken as a whole have established a confidence in the public mind as regards their integrity and efficiency. The main fault of the civil court at present is that justice is not speedy there but this defect is remediable provided necessary funds are placed by the Government at the disposal of judicial department and the present strength of the courts is augmented.

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Revenue courts at present deal mainly with the cases arising in the United Provinces Tenancy Act, Land Revenue Act, section 12 of the Agriculturists' Relief Act (less than Rs.500 valuation) and Regulation of Agricultural Credit Act. Most of the cases are under the first two mentioned Acts. All such cases would have to be transferred to the civil courts. There is nothing revolutionary in this. In Bengal and Bihar the rent cases are all dealt with by the civil courts and there has never been a suggestion that any untoward consequences have ensued on account of that.

The present staff of Deputy Collectors is not adequate to cope with the rent and revenue litigation. It was for this reason that the Government had to make temporary appointment of Revenue Officers. The system of Revenue Officers has worked very well. I had occasion to see their work in appeals. I have heard the public opinion about them. Taken as a whole in the vast majority of cases Revenue

Officers have worked honestly, conscientiously and devotedly. But for them the revenue litigation would have been in a hopeless mess during the war period when the Deputy Collectors were entrusted with multifarious duties and I am of opinion that this agency of Revenue Officers should be continued and the only change that is necessary is that they should be transferred to the Civil Department and should be under the High Court. Their designation may be changed if thought necessary in order to fit them in the hierarchy of civil courts.

The very appointment of this Committee is a pointer to the fact that there is a public dissatisfaction with the manner in which the revenue cases are dealt with at present.

If the revenue courts work is transferred to the civil courts as indicated above various subsidiary questions arise. Firstly is the question of the staff. It goes without saying that the civil courts will have to be much augmented. This can easily be done by the transfer of the Revenue Officers and a portion of the cadre of the Deputy Collectors to the civil side. If even after this the work is found too much for the staff some extra officers will have to be appointed. The Secretariat can work out these figures. My own feeling, however, is that the existing civil court staff reinforced by the Revenue Officers and a number of Deputy Collectors will be enough to cope with the work. The civil work is on decrease and with the passing of the *Gaon Panchayat Act* it will decrease still further. With the proposed abolition of the Zamindari the rent and revenue work will also fall.

The second question will be the abolition or at least the reduction of the posts of Commissioner and Board of Revenue and in this connexion I may invite attention to section 246 of the Government of India Act, 1935, according to which no such post can be abolished without the sanction of the Secretary of State for India. It is hoped that Government will have no difficulty in obtaining such sanction from the Secretary of State for India.

The third question relates to appeals. At present under the United Provinces Tenancy Act and Land Revenue Act I think there are too many appeals. Three appeals are permissible under the Land Revenue Act and two under the United Provinces Tenancy Act. I understand the Government is considering the question of the curtailment of the right of appeals in civil cases and with this object in view they are perhaps thinking of having a bench of judges to hear appeals in the mofassil. If that idea materializes I

would suggest that the principle should be applied to the rent and revenue cases also. Mutation cases in particular are at present unnecessarily tedious and dilatory. Firstly the parties fight in the revenue court right from the court of the Assistant Collector to the Board of Revenue and the defeated party then comes to the civil court for a declaration of his right. He is thus bled white in litigation. I would suggest that there should be one line of courts only to finally dispose of the Mutation matters.

Commissioners and Board of Revenue have a large number of other statutory functions to perform besides those of judicial nature alone. In the event of the abolition of these posts it will be necessary for the Government to consider as to whom those functions are to be transferred.

The Committee in arriving at its conclusion must keep in view certain fundamental principles. It should consider what are the objectives in view. In my opinion they are convenience to the public, efficiency in work, and economy in expenditure. It may be said that according to the present system of revenue courts a large part of the work is done by the Tahsildars in their tahsils exercising the power of Assistant Collector second class, and in this way justice is closer at hand to the litigant public. By the transfer of the revenue work to the civil courts the litigant public will have to come to the headquarters of the district and will be put to greater expenditure. This, however, can be obviated by appointing some munsifs or assistant munsifs at the headquarters of each tahsil or even at some big mofassil town where there may be no tahsils. Moreover, a portion of the rent and revenue work may be transferred to the proposed *Gaon Panchayats*. There can be no denying the fact that the public will feel greater confidence if the rent and revenue cases are dealt with by the civil courts.

One of the main defects of the present system of revenue litigation is the great harassment to which parties are sometimes put on account of conflict of jurisdictions between the civil and revenue courts. It is well-known that appeals from revenue courts at present lie partly to the civil court and partly to the revenue courts. But sometimes moot questions arise whether an appeal lies to the civil or to the revenue court. In such cases the parties first fight up to the highest tribunal on the revenue or the civil side and when at last the decision is given that the appeal does not lie to it then the process begins in the other line of courts and the parties go up to the highest tribunal on that side. If all the

cases are triable only by one class of courts, namely the civil courts, no such harassment would arise. Another defect in the present system is that on some questions the High Court and the Board of Revenue have taken divergent views e.g., the High Court and the Board have given different rulings on section 180 of the United Provinces Tenancy Act, 1939 on the question as to whether a suit by one co-sharer against another for ejectment under that section is maintainable or not. The Board holds that it is, while the High Court holds that it is not maintainable. When there are two tribunals to interpret a law there is bound to be such difference of opinion, but the public is left in the dark. One of the first essential requisites of law is that it should be definite and public should be left in no doubt as to what the law on a particular topic is. That object of law is defeated by the present system of revenue litigation. With the entrustment of rent and revenue cases to one set of tribunals only such defect will not arise.

To sum up my suggestion is that all the judicial work done by the revenue courts at present should be transferred to the civil courts, then the necessary number of presiding officers should be added to the civil courts and this may be done by the transfer of the present Revenue Officers and a portion of the cadre of Deputy Collectors to the civil side. The judicial work from the Commissioners and Board may be taken away and those posts may be abolished with the sanction of the Secretary of State for India. If, however, it is necessary to retain any number of those posts for doing other statutory functions e.g., settlement, etc., then the requisite number may be retained.

(6)

*Opinion recorded by the Hon'ble High Court of Judicature,
Allahabad.*

IN the opinion of the Court, the present arrangement under which rent and revenue cases are dealt with by revenue courts are not wholly satisfactory. The Court is of the opinion that the following classes of rent and revenue suits should be instituted in, and tried by, the civil courts :

- | | |
|--|---|
| (1) All suits (in Group A) in which an appeal lies to the District Judge, | } Of the Fourth Schedule to the United Provinces Tenancy Act, 1939. |
| (2) Suits under sections 171, 180, 183 and 195 in Group B, | |
| (3) Applications under section 81 in Group D, and | |
| (4) All cases under section 12 of the United Provinces Agriculturists' Relief Act, 1934. | |

Applications under section 163 of the United Provinces Tenancy Act, may, as at present, be made to the revenue courts but should be transferred to the civil courts as soon as the notices are contested.

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APPENDIX III

Note on the re-employment of the present Revenue Officers HON'BLE MINISTER FOR REVENUE—

In connexion with the important question of weeding out the corrupt and inefficient Revenue Officers as early as possible, with a view to save the litigant public, most of whom are poor cultivators, from their evil influence, I desire to bring the following decisions of the Revenue Courts Re-organization Committee to the notice of Hon'ble Minister of Revenue for such action in the matter as Hon'ble Minister may deem fit to take :

“That the Revenue Officers should be recruited from amongst—

- (a) the Law Graduate members of the Bar, of at least 5 years' standing, only those being eligible for appointment who have been actually practising as lawyers for the last 5 years or more, just preceding September 30, 1946 ;
- (b) the working Revenue Officers who have been allowed extension of service as such officers on or after September 30, 1946 ; and
- (c) the present Deputy Collectors, preferably those having Law Degrees”.

2. The Committee has also decided to recommend abolition of all the Honorary Courts on the revenue side, whether of Assistant Collectors or Collectors, for the obvious reason that although they mean a saving to the Government Exchequer, they are, on the whole, very much disliked by the general public for the reasons that a large number of them is addicted to corruption ; and of those among them who do not actually go so low as to accept bribe in the shape of money, the bulk is suspected to be not above ‘*sifarish*’ or undue influence. After considering all the aspects of the matter, therefore, the Committee has come to the conclusion that even though it would entail employing more officers for hearing revenue cases, and consequently a larger expenditure from Government Exchequer, it is desirable to abolish altogether the existing institution of Honorary Courts for revenue cases.

3. The Committee has further decided that there should be a wholly independent Revenue Judiciary, except for the lowest rung where the Tahsildar may continue to be an executive officer side by side ; and that no other officer of this

judiciary, excepting the Tahsildar, should be saddled with any executive, administrative, or criminal case work. The reasons for this decision are obvious. The Sub-divisional Officers who, at present, preside over the main revenue courts in districts, are, as experience has shown, much too pre-occupied with executive and administrative work, and so far as the case work goes, they always give preference to criminal cases over revenue. The result is that poor cultivators who go to courts for redress of their grievances concerning revenue law, are put to much unnecessary worry and expense and even then, they do not get proper justice within a reasonable time. The Committee has, therefore, decided that the work of revenue cases must be done by a set of officers, from top to bottom (except in the case of Tahsildars), who will be engaged only for that work and who will have no responsibility for attending to any executive or administrative duties, or any other class of work.

4. The plank of the proposed wholly independent Revenue Judiciary, in districts, will evidently be the officers who will take the place of the present Sub-divisional Officers in the new structure. The Revenue Officers have lately been doing most of the work under the United Provinces Tenancy Act for Sub-divisional Officers and the Committee has, therefore, decided that they should replace the Sub-divisional Officers in the future scheme of wholly independent Revenue Judiciary.

5. On account of the above two decisions, firstly to abolish the Honorary Courts, and secondly to make Revenue Officers the main revenue courts in districts in the future scheme of wholly independent Revenue Judiciary, it has become all the more important to ensure that these officers will form an efficient and honest class. The Committee has, therefore, been keen to find out ways and means to weed out the unsuitable and corrupt ones from amongst the present Revenue Officers and to allow only those of them to go into the new cadre of Revenue Officers under the scheme of independent Revenue Judiciary who have been found to be efficient and above temptations.

6. With this aim in view the Committee has taken its decision, as given in paragraph 1 of this note. The first condition which has been laid down for the recruitment of Revenue Officers is that they should be Law Graduate members of the Bar, of at least 5 years' standing, and that only those among them will be eligible for employment who have been actually practising as lawyers for the last 5 years

or more, just preceding September 30, 1946. If this decision of the Committee is ultimately accepted, it would eliminate —

- (1) the revenue agents on the Agra side of the Province, who are not Law Graduates ;
- (2) those Law Graduates who have not put in 5 years' practice ; and
- (3) those practising Law Graduates who have not actually worked as lawyers during the last 5 years or more, just preceding September 30, 1946.

7. It will be remembered that the institution of Revenue Officers originated in 1942. By the third condition in the preceding paragraph, it is intended to eliminate from selection those Revenue Officers who have been found unsuitable for the work, on account of their lack of integrity or otherwise, and who have not been re-appointed. A number of them have proved to be incompetent, and there are some, appointed from amongst retired lists of officers, who are past-service. It is true that the condition embraces a bit wider scope, as it stands, and will also exclude (1) those Revenue Officers who have themselves decided, for reasons otherwise than any suspicion about their integrity or competency, to give up the work after doing it for a year or so ; and (2) those non-Revenue Officer lawyers who have not actually practised for some time, for some personal reasons, during the last 5 years.

Shri Ajit Prasad Jain considered that it will not be just to exclude these two classes of persons and that it was unfair to lay down a wide condition that those Law Graduate members of the Bar, of at least 5 years' standing, who have not actually practised as lawyers for the last 5 years or more, just preceding September 30, 1946, will not be eligible for appointment as Revenue Officers. The point was discussed in the Committee at length and the Committee considered that even though the condition was a little unfair to some people, the number of persons so affected will be very small ; and that for the purpose of achieving the end in view, viz., to exclude the undesirable Revenue Officers from getting into the new cadre, it would be very necessary, in the larger interest of the public, to exclude all those Law Graduate members of the Bar, who had not actually practised as lawyers for 5 years, just preceding September 30, 1946. This decision was arrived at by an over-whelming majority.

8. The other condition which the Committee has prescribed for excluding the undesirable ones among the working Revenue Officers from getting into the proposed cadre of Revenue Officers, is that only those among the working Revenue Officers who have been allowed extension of service as such officers on or after September 30, 1946, will be eligible for selection for the new cadre of Revenue Officers. The idea behind this decision is that the Government would not give extension to those of the existing Revenue Officers who are reported to be inefficient and corrupt. Shri Ajit Prasad Jain and Shri Vishwambhar Dayal Tripathi considered that the condition prescribed by the Committee was impolitic, in as much as the Government should not take upon itself the function of deciding as to who was corrupt and who was not. This function should rightly be left to the Public Service Commission who will be concerned with the selection of members for the new cadre of Revenue Officers. These two members also considered that the Public Service Commission were the best authority to decide this point and that it will be a risky precedent for Government to take upon itself the decision of the controversial question of one's integrity like that, and thus also to usurp a part of the legitimate functions in the matter of the Public Service Commission. The Committee discussed all the pros and cons of the matter, and assessed the force of arguments raised by Shri Ajit Prasad Jain and Shri Vishwambhar Dayal Tripathi. But it came to the conclusion, by an overwhelming majority, that although the condition prescribed by it, would entail examination of the efficiency and integrity of the present Revenue Officers by Government and a decision by them in the matter, and it was not an altogether faultless procedure, in the existing circumstances it would be very unwise to leave the matter to the Public Service Commission. The Public Service Commission will entirely go by the records of the present Revenue Officers and the Committee apprehended that most of them, who were not above suspicion regarding their honesty, had secured good entries in their Rolls, and that the District Officers under whom they worked would not ordinarily report against their integrity. And, therefore, the Government should shoulder the responsibility, in the peculiar conditions in which they were placed, of eliminating the corrupt and inefficient Revenue Officers by debarring them from applying for the new cadre. The Committee, by a very large majority, considered that the best course to ensure this result will be to allow only those of the working Revenue Officers to apply for the post who have been given extension of service

as such officers on or after September 30, 1946 so that the Government may refuse to give extension to the undesirable ones on or after that date and thus safeguard against their getting into the new cadre.

9. It is for the above reasons that the Revenue Courts Reorganization Committee has taken the decision as given in paragraph 1 of this Note. Hon'ble Minister of Revenue may now consider the recommendation of the Committee about disqualifying the corrupt and inefficient Revenue Officers from applying for the new cadre of Revenue Officers, by refusing to allow them extension of service as Revenue Officers on or after September 30, 1946 and take such action in the matter as he may deem necessary.

K. N. SINGH,
Secretary.

September 20, 1946.

CHARAN SINGH,
Chairman.



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APPENDIX IV

Note on certain provisions of the "United Provinces Gaon Hukumat Bill", 1946.

The Revenue Courts Reorganization Committee, appointed by Government in G. O. no. 2182/I-17-C/1946 (Revenue Department), dated August 8, 1946, have considered the following clauses of the United Provinces *Gaon Hukumat* Bill, 1946 :

"Proceedings under the Land Revenue Act,

72. All disputed cases arising out of proceedings under sections 33, 34, 35, 39, 40 and 41 of Act III of 1901 shall be referred by the Tahsildar to the *Adalti Panchayat* having jurisdiction, if any :

Provided that proceedings under sections 34 and 35 of Act III of 1901, in which land paying more than Rs.5,000 land revenue is involved shall not be referred to any *Adalti Panchayat* :

Provided, secondly, that no application for correction of records or mutation of names shall be entertained by an *Adalti Panchayat*.

73. In all proceedings referred to in the preceding section, the Collector or Sub-divisional Officer shall have powers of revision either upon reference made to him or upon his own motion ; but there shall be no appeal against orders of any *Adalti Panchayat* notwithstanding any provision of Act III of 1901 to the contrary.

74. In proceedings under the Land Revenue Act, the *Adalti Panchayat* shall follow the prescribed procedure."

2. These clauses evidently mean that—

(a) all undisputed cases arising out of proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act, shall continue to be dealt with by the existing courts as hitherto ;

(b) that all disputed cases arising out of proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act shall, on the passing of the *Gaon Hukumat* Bill into an Act, be dealt with by the *Adalti Panchayats*;

- (c) that there will be no direct institution of cases under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act in the Court of *Adalti Panchayats*; and that disputed proceedings under these sections shall be referred to *Adalti Panchayats* by Tahsildars;
- (d) that all cases under sections 34 and 35 of the United Provinces Land Revenue Act, in which land paying revenue up to Rs.5,000 is involved, shall be referred to *Adalti Panchayats*; and
- (e) that there shall be no appeal from the orders passed by the *Adalti Panchayats* in proceedings under sections 33, 34, 35, 39, 40 and 41 of the United Provinces Land Revenue Act; but the Collectors and Sub-divisional Officers shall have power of revision either upon reference made to them or on their own motion.

3. The Committee consider that it will not be right to empower these *Adalti Panchayats* to deal with Mutation cases under sections 34 and 35, United Provinces Land Revenue Act, involving lands which pay land revenue up to Rs.5,000 per annum. Most of these properties will be very valuable and must be dealt with in proper manner by regular law courts. They would limit cases under sections 34 and 35, United Provinces Land Revenue Act, to be heard by the *Adalti Panchayats*, only to those which involve an annual revenue of Rs.50 or less. For similar obvious reasons, the Committee are of the opinion that there should be provision for appeals against orders passed in Mutation cases relating to valuable properties. Accordingly they disagree—

- (a) that *Adalti Panchayats* should hear Mutation cases relating to properties paying land revenue up to Rs.5,000 per annum; and
- (b) that there should be no appeal against the orders of *Adalti Panchayats* in cases under sections 34 and 35, United Provinces Land Revenue Act, dealt with by them.

4. The Committee are of the opinion that *Adalti Panchayats* should hear cases under sections 34 and 35, United Provinces Land Revenue Act, relating to properties paying an annual land revenue of Rs.50 or less only; and that the decisions of the *Panchayats* under sections 34 and 35, United Provinces Land Revenue Act should be summary and the

parties who are not satisfied with the orders should be free to take their cases to civil courts for declaration of their title.

5. In this connexion it will be relevant to quote below the following other decisions of the Committee in connected matters :

- (1) that cases relating to mutation of names under the United Provinces Land Revenue Act should be decided summarily by Revenue Courts on the basis of *prima facie* title, and not on the basis of possession, as is done at present ;
- (2) that the undisputed Mutation cases should be decided by Tahsildars ; and disputed ones by Revenue Officers ;
- (3) that no appeal or revision should lie against the orders of Revenue Officers in Mutation cases, parties not satisfied, being left free, as at present, to go to civil court for declaration of their title ;
- (4) that undisputed cases relating to Correction of Papers under the United Provinces Land Revenue Act should also be decided on the same lines as undisputed Mutation cases ;
- (5) that disputed cases relating to Correction of Papers under the United Provinces Land Revenue Act which involve questions of tenancy rights, should be decided by the Revenue Officers in a regular manner after framing issues ; and that there should be first and second appeals in such cases on the same lines as in cases under the United Provinces Tenancy Act ; and
- (6) that in disputed Correction of Papers cases which involve questions of proprietary title, the revenue court should direct the parties concerned to obtain a declaration about title from civil court and should not disturb the existing entries except on the basis of the judgments of civil courts pertaining to the disputed title.

K. N. SINGH,
Secretary.
September 20, 1946.

CHARAN SINGH,
Chairman.

APPENDIX V

Proceedings of the Committee

(1)

Proceedings of the First Meeting of the Revenue Courts Reorganization Committee.

THE first meeting of the Committee was held on September 2, 1946 at 2 p.m. in Council House in the Room of Shri Charan Singh, the Chairman of the Committee. The following members were present :

- (1) Shri Charan Singh (*in Chair*),
- (2) Babu Baij Nath,
- (3) Shri Ajit Prasad Jain,
- (4) Shri Radha Mohan Singh,
- (5) Thakur Shri Gopal Singh, and
- (6) Thakur Kuldeep Narayan Singh.

2. The members discussed general questions arising out of the Terms of Reference and came to the following tentative conclusions :

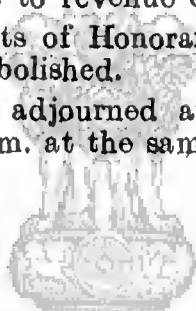
- (1) That there should be a wholly independent Revenue Judiciary, except for the lowest rung where the Tahsildar may continue to be an Executive Officer side by side ; and that no other officer of this judiciary, excepting the Tahsildar, should be saddled with any executive, administrative or criminal case work.
- (2) That there should be the following grades of Courts :
 - (a) Tahsildar (Assistant Collector second class).
 - (b) Revenue Officer (Assistant Collector first class).
 - (c) Divisional Court of Appeal (Additional Commissioner).
 - (d) Provincial Court of Appeal (Board of Revenue).
- (3) That first appeals from cases heard by Tahsildars (Assistant Collectors second class) should lie to the Divisional Courts of Appeal ; and that second appeals from their orders should lie to the Provincial Court of Appeal, only on grounds specified in section 100, Code of Civil Procedure, and if the Divisional Court certifies that it is a fit case for appeal to be entertained.

- (4) That first appeals from cases heard by Revenue Officers (Assistant Collectors first class) should lie to the Divisional Courts of Appeal ; and that second appeals from their orders should lie to the Provincial Court of Appeal, only on grounds specified in section 100, Code of Civil Procedure.
- (5) That cases involving questions of proprietary titles should be transferred to civil courts for complete disposal and not only for findings on particular issues relating to proprietary titles, as is done at present.
- (6) That civil suits in which questions of tenancy rights are also involved should be disposed of completely by civil courts and that issues in them relating to tenancy rights should not be remitted for findings to revenue courts.
- (7) That the courts of Honorary Assistant Collectors should be abolished.

3. The Committee adjourned at 4.30 p.m., to meet again tomorrow at 1 p.m. at the same place.

K. N. SINGH,
Secretary.
September 2, 1946.

CHARAN SINGH,
Chairman.



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(2)

*Proceedings of the Second Meeting of the Revenue Courts
Reorganization Committee.*

THE second meeting of the Committee was held on September 3, 1946 at 1 p.m. in Council House in the Room of Shri Charan Singh, the Chairman of the Committee. The following members were present :

- (1) Shri Charan Singh (*in Chair*),
- (2) Babu Baij Nath,
- (3) Shri Radha Mohan Singh,
- (4) Shri Vishwambhar Dayal Tripathi,
- (5) Shri Ajit Prasad Jain,
- (6) Mr. Mohd. Ishaq Khan,
- (7) Thakur Shri Gopal Singh, and
- (8) Thakur Kuldip Narayan Singh.

2. The members also re-considered the tentative decisions taken in the meeting held yesterday, and took the following decisions :

- (1) That there should be a wholly independent Revenue Judiciary, except for the lowest rung where the Tahsildar may continue to be an Executive Officer side by side ; and that no other officer of this Judiciary, excepting the Tahsildar, should be saddled with any executive, administrative, or criminal case work.
 - (2) That there should be the following grades of Revenue Courts :
 - (a) Tahsildar (Assistant Collector second class).
 - (b) Revenue Officer (Assistant Collector first class).
 - (c) Divisional Court of Appeal (Additional Commissioner).
 - (d) Provincial Court of Appeal (Board of Revenue).
- (N.B.—The designations given in brackets are of the present equivalent courts.)
- (3) That all the courts of Honorary Assistant Collectors (or Collectors) should be abolished.

- (4) That the Provincial Court of Appeal should have on it 3 members, one of whom should be recruited from the Bar, having at least 10 years' standing; one from the Revenue Judiciary; and the remaining one from the Civil Judiciary; in the case of the latter two, from amongst those officers, who have at least 10 years' experience of Revenue or Civil Court work.
- (5) That the first appeals from cases decided by Tahsildars (Assistant Collectors second class) should lie to a Revenue Officer in the district specially empowered for the purpose; and that second appeals from their orders should lie to the Divisional Courts of Appeal, only on grounds specified in section 100, Civil Procedure Code.
- (6) That first appeals from cases decided by Revenue Officers (Assistant Collectors first class) should lie to the Divisional Courts of Appeal; and that second appeals from their orders should lie to the Provincial Court of Appeal, only on grounds specified in section 100, Criminal Procedure Code.
- (7) That, as a general rule, all cases, including those mentioned at serial nos. 20, 21 and 22 of Group B of Schedule IV of the United Provinces Tenancy Act, which involve issues relating to proprietary titles in them, should be transferred by the revenue courts to civil courts for complete disposal and not only for findings on particular issues relating to proprietary titles, as is done at present.
- (8) That civil suits in which issues of tenancy rights are involved should be disposed of completely by civil courts and that issues in them, relating to tenancy rights should not be remitted for findings to revenue courts, as is done at present.
- (9) That provision should be made in the United Provinces Tenancy Act for division and exchange of joint lands under proprietary cultivation, by revenue courts, on lines similar to those in sections 49, 50, 51, 52 and 53 of the United Provinces Tenancy Act.

- (10) That cases relating to mutation of names under the United Provinces Land Revenue Act should be decided summarily by revenue courts on the basis of *prima facie* title, and not on the basis of possession, as is done at present. The undisputed Mutation cases should be decided by Tahsildars ; and disputed ones by Revenue Officers. No appeal or revision should lie against the orders of Revenue Officers in such cases. Parties who are not satisfied, will be free, as at present, to go to civil court for declaration of their title.

(N.B.—The position about court fee in cases going to civil courts after summary decisions by Revenue Officers should be reviewed so as to ensure that the litigant public in such cases is not taxed unduly severely.)

- (11) That undisputed cases relating to Correction of Papers under the United Provinces Land Revenue Act, should also be decided on the same lines as undisputed Mutation cases.
- (12) That disputed cases relating to Correction of Papers under the United Provinces Land Revenue Act, which involve questions of tenancy rights, should be decided by Revenue Officers in a regular manner after framing issues ; and that there should be first and second appeals in such cases on the same lines as in cases under the United Provinces Tenancy Act.
- (13) That Partition cases under the United Provinces Land Revenue Act should continue to be heard by Revenue Courts as at present, with a provision for reference to Civil Courts when questions relating to proprietary titles are involved, and also with a provision for appeals similarly as in other contested cases under the United Provinces Tenancy Act or the United Provinces Land Revenue Act.
- (14) That the appointments, transfers and punishments of Patwaris and Kanungoes, as also the appointments and dismissals of Lambardars, should be matters to be dealt with by Administrative Officers and not by Judicial Officers on the revenue side.

3. There was a difference of opinion relating to the procedure in disputed Correction of Papers cases, which involved questions of proprietary title. A majority of the members considered that the same course should be followed as for disputed Mutation cases ; but a few were of the opinion that such cases should not be heard in revenue courts at all and that the parties should be directed to obtain a declaration about their title from civil courts before the existing entries are disturbed.

4. The Committee adjourned at 4.30 p.m. to meet again tomorrow at 1 p.m., at the same place.

K. N. SINGH,

Secretary.

September 3, 1946.

CHARAN SINGH,

Chairman.



सत्यमेव जयते

(8)

*Proceedings of the Third Meeting of the Revenue Courts
Reorganization Committee.*

THE third meeting of the Committee was held on September 4, 1946 at 2 p.m. in Council House in the Room of Shri Charan Singh, the Chairman of the Committee. The following members were present :

- (1) Shri Charan Singh,
- (2) Babu Baij Nath,
- (3) Shri Radha Mohan Singh,
- (4) Shri Vishwambhar Dayal Tripathi,
- (5) Shri Ajit Prasad Jain,
- (6) Mr. Mohd. Ishaq Khan,
- (7) Thakur Shri Gopal Singh, and
- (8) Thakur Kuldip Narayan Singh.

2. Shri Charan Singh, the Chairman of the Committee, was unavoidably absent when the meeting commenced at 2 p.m. In his absence Babu Baij Nath was voted to the Chair and the proceedings commenced under his Chairmanship.

3. The proceedings of the meeting held yesterday were read over and confirmed.

4. When the reading of the proceedings of yesterday's meeting was about to be over, Shri Charan Singh arrived and took the Chair, which was vacated by Babu Baij Nath.

5. The Committee then proceeded to discuss the various items in the Agenda for the day and took the following decisions, in some cases by majority but in most of them unanimously :

- (1) That in disputed Correction of Papers cases, which involved questions of proprietary title, the revenue courts should direct the parties concerned to obtain a declaration about title from civil court and should not disturb the existing entries except on the basis of the judgments of civil courts pertaining to the disputed title.
- (2) That the Revenue Officers should be recruited from amongst—
 - (a) the Law Graduate members of the Bar of at least 5 years' standing, only those being eligible for appointment who have been actually practising as lawyers for the last 5 years or more, just preceding September 30, 1946 ;

- (b) the working Revenue Officers who have been allowed extension of service as such officers on or after September 30, 1946 ; and
 - (c) the present Deputy Collectors, preferably those having Law degrees.
- (3) That the status of Revenue Officers should be that of the Provincial Civil Service.
- (4) That the officers for Divisional Courts should be recruited from amongst—
- (a) the Law graduate members of the Bar, of at least 10 years' standing ; and
 - (b) Revenue Officers and Deputy Collectors who have done court work for at least 10 years. The proportion of the two sources in the cadre should be 50 : 50.
- (5) That the Provincial Court of Appeal should always sit in a Bench of two members to hear appeals or revisions.
- (6) That the Committee do not agree with the following provisions in clauses 72, 73 and 74 of the United Provinces *Gaon Hukumat* Bill, 1946—
- (a) that *Adalti Panchayats* should hear Mutation cases relating to properties paying a land revenue up to Rs.5,000 per annum ; and
 - (b) that there should be no appeal against the orders of *Adalti Panchayats* in cases under sections 34 and 35, United Provinces Land Revenue Act, dealt with by them.

The Committee are of the opinion that the *Adalti Panchayats* should hear cases under sections 34 and 35, United Provinces Land Revenue Act, relating to properties paying an annual land revenue of Rs.50 or less only ; and that the decisions of the *panchayats* under sections 34 and 35, United Provinces Land Revenue Act should be summary and the parties who are not satisfied with the orders should be free to take their cases to civil courts for declaration of their title.

- (7) That applications under section 163, United Provinces Tenancy Act, should be heard by Revenue Officers (Assistant Collectors first class), and not by Tahsildars (Assistant Collectors second class).

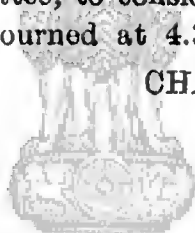
- (8) That appeals from certain class of cases, e.g. Profits and Arrears of Rent suits beyond a particular sum, from the decisions of Revenue Officers (Assistant Collectors first class), which lie at present in the courts of District Judges, should in future lie in the Divisional Courts of Appeal.
- (9) That proceedings under the United Provinces Agriculturists' Relief Act and the United Provinces Debt Redemption Act, which are at present heard by revenue courts, should all be heard by civil courts exclusively in future.

6. The Committee decided that a brief report, incorporating the decisions of the Committee taken during its meetings held on September 2, 3, and 4, should be drawn up and circulated among the members, and the next meeting of the Committee may be called up for September 28, 1946, at 1 p.m. in Council House, in the Room of Shri Charan Singh, the Chairman of the Committee, to consider the Report.

7. The meeting adjourned at 4.30 p.m.

K. N. SINGH,
Secretary.
September 4, 1946.

CHARAN SINGH,
Chairman.



सत्यमेव जयते

(4)

Proceedings of the Fourth Meeting of the Revenue Courts Reorganization Committee.

THE fourth meeting of the Committee was held on February 22, 1947 at 12 noon in Council House in the Room of Shri Charan Singh, the Chairman of the Committee. The following members were present :

- (1) Shri Charan Singh (*in Chair*),
- (2) Babu Baij Nath,
- (3) Shri Vishwambhar Dayal Tripathi,
- (4) Mr. Zahirul Hasnain Lari,
- (5) Thakur Shri Gopal Singh, and
- (6) Thakur Kuldip Narayan Singh.

2. The Committee considered the Report prepared by the Secretary and decided, by a majority, to make the following changes in it :

- (a) Clause 3 of paragraph 81 should be deleted ;
- (b) Clause 2 of paragraph 81 should read as follows :
Members of the cadre of (a) I. C. S. and (b) U. P. C. S., on the executive or judicial side, and (c) Revenue Officers, who have done revenue case work for at least 10 years, and are not more than fifty years of age ; and
- (c) the following sub-paragraphs of paragraph 81 of the Report should now read as shown below :

As given in the Draft Report

We consider that it will be a good idea from several points of view to have fusion of civil courts Presiding Officers at the highest stage of the new Revenue Judiciary ; and have, therefore, included one of them in the proposed strength of three.

As they should stand now

We consider that it will be a good idea from several points of view to have fusion of civil court Presiding Officers at the highest stage of the new Revenue Court Judiciary ; and have, therefore, included them also among those who should be considered for appointment to the Provincial Court of Appeal.

*As given in the Draft Report**As they should stand now*

If, however, it becomes necessary to add to the strength of the Provincial Court of Appeal, the remaining seats should be filled up from the other two sources mentioned at (1) and (2) above in the proportion of 50 : 50.

The proportion of the two sources mentioned at (1) and (2) above should be 2 : 1, i.e. two from Bar and one from services.

3. The Committee also decided that in clause (1) of paragraphs 71, 78 and 81 of the Report "Revenue and Civil Practice" should be substituted for "Revenue Practice".

4. On the motion of the Chairman the Committee decided to add a paragraph of thanks to the Secretary for his work in connexion with this Committee, including the preparation of the Report. The Chairman was requested to draft this paragraph.

5. The Committee further decided that the Report as amended by resolutions 2 and 3 above should be sent to the Press for printing and should, thereafter, be supplied to all those persons and bodies to whom Government Publications are ordinarily supplied, including M. L. A's, M. L. C's, District Officers, District Judges, High Court, Chief Court, and the Board of Revenue. The actual number of copies to be printed for the purpose should be fixed by the Secretary in consultation with the Superintendent, Printing and Stationery.

6. The Committee finally decided to record a vote of thanks to the Chairman for his able guidance of the proceedings.

7. The members present signed the Report ; and it was decided that the remaining three members should be addressed enquiring whether they agreed to sign the Report, as it is or would like to sign it with any note or minute of dissent.

K. N. SINGH,

Secretary.

February 22, 1947.

CHARAN SINGH,

Chairman.

APPENDIX VI

Statements of Case Work

(1)

Disposals of Cases in the Courts of the Tahsildars in the United Provinces.

Year	Number of officers	Tenancy Act	Land Revenue Act	Total
1940-41 ...	206	4,42,527	1,81,546	6,24,073
1941-42 ...	212	4,35,547	1,95,344	6,30,891
1942-43 ...	212	2,52,839	2,26,488	4,79,327
1943-44 ...	212	2,89,697	2,40,492	5,30,189
1944-45 ...	212	4,18,472	2,40,020	6,58,492
1945-46 ...	212	2,02,674	2,31,237	4,33,911
Average ...	211	3,40,293	2,19,188	5,59,481

(2) (a)

*Disposals of Cases in the Courts of the Honorary Assistant
Collectors of the First Class in the United Provinces.*

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	43	14,213	120	35	14,368
1941-42 ...	51	30,738	118	7	30,858
1942-43 ...	46	23,932	298	82	24,312
1943-44 ...	46	25,970	234	209	26,413
1944-45 ...	53	28,840	289	342	29,471
1945-46 ...	52	18,935	430	296	19,661
Average...	48	23,770	248	162	24,180

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(2) (b)

Disposals of cases in the Courts of the Honorary Assistant Collectors of the Second Class in the United Provinces.

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	71	27,608	...	50	27,658
1941-42 ...	100	49,362	...	230	49,592
1942-43 ...	112	59,770	...	15	59,785
1943-44 ...	111	57,051	106	2	57,159
1944-45 ...	97	51,381	54	4	51,439
1945-46 ...	92	41,580	...	1	41,581
Average	97	47,792	80	50	47,869

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(2) (c)

Disposals of Cases in the Courts of the Honorary Assistant Collectors in the United Provinces.

[Totals of 2(a) and 2(b)]

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	114	41,821	120	85	42,026
1941-42 ...	151	80,095	118	237	80,450
1942-43 ...	158	83,702	298	97	84,097
1943-44 ...	157	83,021	340	211	83,572
1944-45 ...	150	80,221	343	346	80,910
1945-46 ...	144	60,515	430	297	61,242
Average	146	71,562	275	212	72,049

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(8)

Disposals of Cases in the Courts of the Revenue Officers in the United Provinces.

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	2	1,563	34	...	1,597
1941-42 ...	92	71,171	3,916	1,687	76,774
1942-43 ...	98	1,80,702	9,922	4,004	1,94,628
1943-44 ...	116	2,21,510	12,725	7,383	2,41,618
1944-45 ...	116	2,78,708	11,158	6,041	2,95,907
1945-46 ...	116	1,84,916	10,749	5,663	2,01,328
Average	90	1,56,428	8,084	4,130	1,68,642



(4) (a)

*Disposals of Cases in the Courts of the Deputy Collectors and
I. C. S. Officers working as Assistant Collectors
(Sub-divisional Officers) in the United Provinces.*

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	190	1,23,333	98,747	5,191	2,27,271
1941-42 ...	197	1,03,048	1,02,153	14,627	2,19,828
1942-43 ...	194	81,554	1,07,857	17,594	2,07,005
1943-44 ...	193	56,057	1,03,876	15,739	1,75,672
1944-45 ...	196	51,051	1,06,887	16,236	1,74,174
1945-46 ...	195	31,398	95,939	13,910	1,41,247
Average...	194	74,407	1,02,576	13,883	1,90,866

(4) (b)

Disposals of Cases in the Courts of the Deputy Collectors and I. C. S. Officers working as Assistant Collectors of the First Class in the United Provinces.

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	66	25,979	3,237	99	29,315
1941-42 ...	65	18,778	4,152	895	23,825
1942-43 ...	47	9,365	3,797	2,507	15,669
1943-44 ...	47	9,843	1,993	1,990	13,826
1944-45 ...	35	3,606	2,145	527	6,278
1945-46 ...	29	2,422	781	1,075	4,278
Average	48	11,666	2,684	1,182	15,532

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(4) (c)

Disposals of Cases in the Courts of the Deputy Collectors and I. C. S. Officers working as Assistant Collectors of the Second Class in the United Provinces.

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	17	5,508	1,071	...	6,579
1941-42 ...	32	8,858	1,352	...	10,210
1942-43 ...	32	7,344	1,527	...	8,871
1943-44 ...	23	6,098	1,634	...	7,732
1944-45 ...	17	9,684	1,207	...	10,891
1945-46 ...	14	2,512	1,529	...	4,041
Average	23	6,667	1,387	...	8,054

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(4) (d)

*Disposals of Cases in the Courts of the Deputy Collectors and
I. C. S. Officers working as Assistant Collectors in the
United Provinces.*

[Totals of 4(a), 4(b) and 4(c)]

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	273	1,54,820	1,03,055	5,290	2,63,165
1941-42 ...	294	1,30,684	1,07,657	15,522	2,53,863
1942-43 ...	273	98,263	1,13,181	20,101	2,31,545
1943-44 ...	263	71,998	1,07,503	17,729	1,97,230
1944-45 ...	248	64,341	1,10,239	16,763	1,91,343
1945-46 ...	238	36,332	98,249	14,985	1,49,566
Average	265	92,740	1,06,647	15,065	2,14,452

(v)

Disposals of Cases in the Courts of the Collectors in the United Provinces

Year	Num- ber of officers	Tenancy Act			Land Revenue Act			Debt Acts			Total		
		(a) Ori- gi- nal	(b) Appeals and revi- sions	(c) Total	(a) Ori- gi- nal	(b) Appeals and revi- sions	(c) Total	(a) Ori- gi- nal	(b) Appeals and revi- sions	(c) Total	(a) Ori- gi- nal	(b) Appeals and revi- sions	(c) Total
1940-41	49	283	6,172	6,455	569	6,039	6,608	8	242	250	860	12,453	13,313
1941-42	49	311	5,260	5,571	14	4,541	4,555	12	181	193	337	9,982	10,319
1942-43	49	390	4,707	5,097	15	5,099	5,114	19	187	206	424	9,993	10,417
1943-44	49	415	4,510	4,925	14	4,522	4,536	27	254	281	456	9,286	9,742
1944-45	49	535	3,736	4,271	6	4,046	4,052	32	245	277	573	8,027	8,600
1945-46	49	527	4,178	4,705	10	4,770	4,780	31	259	290	568	9,207	9,775
Average	49	410	4,761	5,171	105	4,836	4,941	22	228	250	536	9,825	10,361

(6)

Disposals of Cases in the Courts of the Additional Collectors in the United Provinces

Year	Num- ber of officers	Tenancy			Land Revenue Act			Debt Acts			Total		
		(a)	(b)	(c)	(a)	(b)	(c)	(a)	(b)	(c)	(a)	(b)	(c)
		Ori- gi- nal	Appeals and revi- sions	Total	Ori- gi- nal	Appeals and revi- sions	Total	Ori- gi- nal	Appeals and revi- sions	Total	Ori- gi- nal	Appeals and revi- sions	Total
1940-41 ...	9	5	902	907	11	345	356	12	...	12	28	1,247	1,275
1941-42 ...	13	107	1,303	1,410	...	692	692	11	...	11	118	1,995	2,113
1942-43 ...	14	226	1,624	1,850	19	523	542	3	...	3	248	2,147	2,395
1943-44 ...	15	156	2,158	2,314	11	755	766	11	...	11	178	2,913	3,091
1944-45 ...	18	105	1,593	1,698	25	734	759	12	...	12	142	2,327	2,469
1945-46 ...	15	375	628	1,003	16	624	640	7	...	7	398	1,252	1,650
Average ...	14	162	1,368	1,530	16	612	626	9	...	19	185	1,980	2,165

(7)

*Disposals of Cases in Appeals and Revisions in the Courts
of the Commissioners in the United Provinces*

Year	Number of officers	Appeals			Revi- sions	Total
		Tenancy Act	Land Revenue Act	Debt Acts		
1940-41 ...	10	3,095	1,605	...	966	5,666
1941-42 ...	10	4,015	1,325	...	1,015	6,355
1942-43 ...	10	2,247	1,366	...	906	4,513
1943-44 ...	10	1,535	1,024	50	812	3,421
1944-45 ...	10	1,231	1,239	73	1,043	3,586
1945-46 ...	10	1,195	1,281	41	904	3,421
Average	10	2,219	1,307	55	940	4,424

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(8)

Disposals of Cases in Appeals and Revisions in the Courts of the Additional Commissioners in the United Provinces.

Year	Number of officers	Appeals			Revisions	Total
		Tenancy Act	Land Revenue Act	Debt Acts		
1940-41 ...	5	7,534	483	...	748	8,765
1941-42 ...	8	12,149	445	...	406	13,000
1942-43 ...	9	13,813	347	...	342	14,502
1943-44 ...	12	14,404	472	2,623	677	18,176
1944-45 ...	12	15,587	328	869	424	17,203
1945-46 ...	10	13,970	249	698	334	15,251
Average	9	12,909	386	1,397	488	14,483

नमो भगवते वासुदेवाय

(9)

*posals of Cases in Appeals and Revisions in the Court of
the Board of Revenue in the United Provinces*

Year	Number of officers	Tenancy Act	Land Revenue Act	Debt Acts	Total
1940-41 ...	2	3,517	686	397	4,600
1941-42 ...	2	3,116	598	474	4,188
1942-43 ...	3	4,617	573	3,657	8,847
1943-44 ...	3	5,364	739	466	6,569
1944-45 ...	3	4,888	673	584	6,145
1945-46 ...	3	3,212	525	241	3,978
Average ...	3	4,119	632	970	5,721